

**KENTUCKY**

Winter 2011 | Volume 10, Number 4

# LAW ENFORCEMENT

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**PROOF  
POSITIVE**

**page 40**



**Steve Beshear**  
Governor

**J. Michael Brown**  
Justice and Public Safety  
Cabinet Secretary

**John W. Bizzack**  
Commissioner

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**STAFF:**

Dave Wilkinson, Editor  
Diane Patton, Coordinator  
Trang Baseheart  
Abbie Darst  
Kelly Foreman  
Jim Robertson

**CONTRIBUTOR:**

Edliniae Sweat  
Elizabeth Thomas



This publication is produced quarterly as a training and marketing tool for the Kentucky law enforcement community as well as public officials and others involved with law enforcement or the oversight of law enforcement. It includes best practices, professional profiles, technology and law updates of practical application and news-to-use for professionals in the performance of their daily duties.

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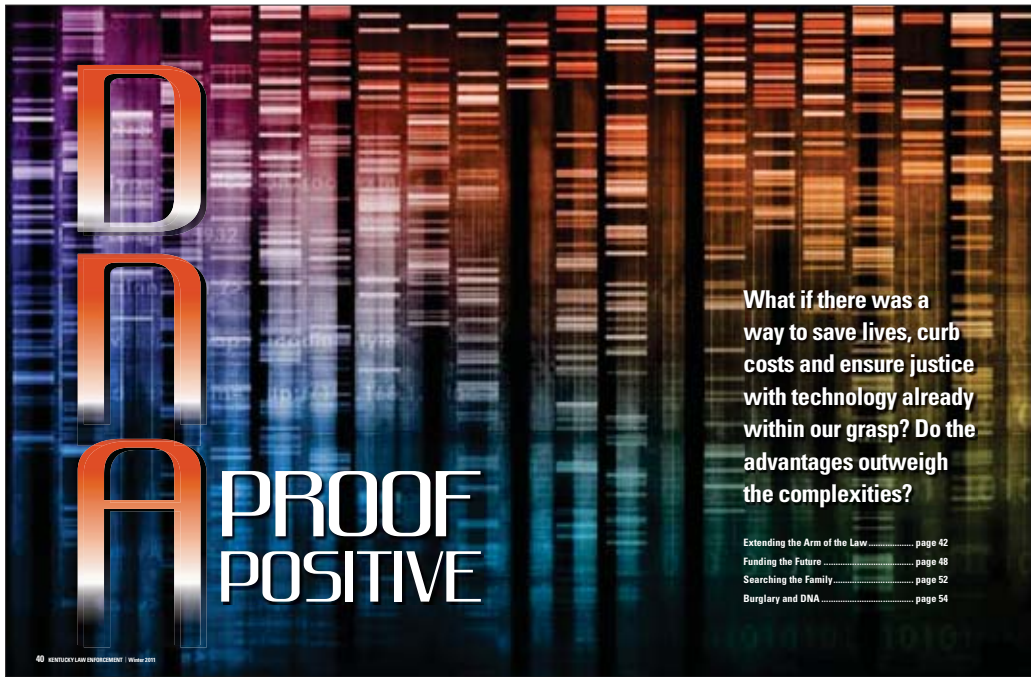
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**THE DIFFICULT  
RESPONSE**  
Unclear laws, judicial  
lack of support and an  
uninformed public make  
enforcing Kentucky's  
animal abuse statutes  
difficult for officers in  
the commonwealth



Address all correspondence to: KLE Staff, Funderburk Building  
521 Lancaster Avenue, Richmond, KY 40475 | [DOCJT.KLENN@ky.gov](mailto:DOCJT.KLENN@ky.gov)





What if there was a way to save lives, curb costs and ensure justice with technology already within our grasp? Do the advantages outweigh the complexities?

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**BECAUSE KNOWLEDGE IS POWER**

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## FEATURE

# PURSuing THE HUNT

Kentucky Officers Connecting Law Enforcement Through Outdoor Sport

» The Kentucky Law Enforcement staff welcomes submissions of law enforcement-related photos and articles for possible submission in the magazine and to the monthly KLE Dispatches electronic newsletter. We can use black and white or color prints, or digital images. KLE news staff can also publish upcoming events and meetings. Please include the event title, name of sponsoring agency, date and location of the event and contact information.



## Secretary's Column

# State Collaboration is Necessary to Fight Drug Problem

J. MICHAEL BROWN | SECRETARY, JUSTICE AND PUBLIC SAFETY CABINET

**T**he abuse and diversion of prescription drugs is the fastest growing, most prolific substance abuse issue facing our commonwealth. As many as two Kentuckians die every day due to accidental overdose of prescription drugs — and anecdotal evidence suggests that figure is grossly underreported. In Kentucky, more people now die from prescription overdoses than from injuries sustained in motor-vehicle accidents.

In an effort to reduce the destructive impact of prescription drug abuse on Kentucky families, Gov. Steve Beshear has spearheaded several initiatives to dramatically strengthen our ability to monitor and detect abuse, as well as to curb the availability of prescription pills from disreputable and scurrilous prescribers and dispensers.

The Kentucky All Schedule Prescription Electronic Reporting system — already considered a national model for prescription drug monitoring — provides an effective tool for health care providers and law enforcement in the fight against prescription drug abuse and diversion. But interstate data sharing among prescription drug monitoring programs is desperately needed to enhance the effectiveness of these programs as tools to improve public health and safety.

In August, Kentucky and Ohio became the first states to link their databases to make it tougher for addicts in one of the states to avoid detection by visiting a doctor in the other. The electronic Prescription Monitoring Information Exchange marked a highly anticipated milestone for prescription-drug monitoring programs and ongoing work to fulfill a need to share data across state lines.

"Doctor shoppers" often seek controlled substances from multiple providers, and they cover increasingly large territories to obtain the drugs. In fact, some Kentucky authorities estimate that 60 percent of the area's illegal prescription pills come from Florida, and the Kentucky State Police arrested more than 500 people from eastern Kentucky in 2009 who traveled to Florida for this purpose.

Also in August, Kentucky hosted the first meeting of a new Interstate Prescription Drug

Abuse Task Force, composed of Kentucky, Ohio, West Virginia and Tennessee. The interstate alliance, which includes representatives from government, law enforcement, health care and advocacy groups, hopes to coordinate databases, laws and investigations to try to keep pill mills that are shut down in one state from popping up across the border.

And just recently, Gov. Beshear joined House Speaker Greg Stumbo and Attorney General Jack Conway in announcing support for legislation to license and regulate pain clinics in Kentucky, with strict requirements regarding who may own or operate them, and make KASPER a more robust, flexible and useful tool by mandating its use by all prescribers.

Kentucky also plans to educate more physicians and dispensers about the use of the state's prescription monitoring program. An advisory board of physicians, dentists, nurses and pharmacists will work with KASPER officials and law enforcement professionals to create guidelines for generally accepted practices among different medical disciplines. These criteria will be used to guide when a prescriber or dispenser's KASPER reports may be flagged for unusual prescribing activity.

These proposals are not meant to target physicians with legitimate patient needs for pain relief, but to root out the so-called "drug dealers in white coats" whose entire professional practices are focused on feeding these devastating addictions. The initiatives will improve the tracking of prescription drugs and choke off the supply of pills from illegal sources.

Kentucky is not an island. We live in a mobile society and that mobility limits the ability of any one state to be entirely successful in addressing substance-abuse issues. A collaboration of state efforts can help put the brakes on the prescription abuse epidemic. ■





## Commissioner's Column

# Technology Should be Paired with Logic and Reason

JOHN W. BIZZACK | COMMISSIONER, DEPARTMENT OF CRIMINAL JUSTICE TRAINING

When we think of the nature of inquiry, logic, reason and deduction, the fictional character of Sherlock Holmes springs immediately to mind.

Holmes, a fictional detective created by Scottish author and physician Sir Arthur Conan Doyle, became the quintessential “consulting detective,” celebrated for his astute logical reasoning and his use of pioneering forensic science skills to solve a multitude of criminal cases created by Doyle’s brilliant mind.

The character of Sherlock Holmes first appeared in publication in 1887 and was ultimately featured in four novels and 56 short stories by Doyle.

Doyle was considered a prominent, influential and intellectual member of London’s upper crust. Holmes and the solutions to the amazing cases that grabbed the public’s attention made the author famous.

In 1917 at the height of his fame, Doyle — the master of deductive reasoning and forensic science — publicly declared his belief in fairies. The English-speaking world was shocked. The man who created the ever-logical Sherlock Holmes actually believed in fairies? Even when the crude technology of the time examined his “evidence” and refuted his claims, Doyle stubbornly ignored the evidence and continued to proclaim his personal beliefs.

Doyle’s public humiliation started when two English schoolgirls, 16-year-old Elsie Wright and

her 10-year-old cousin Frances Griffiths, innocently launched a worldwide deception. While playing, the girls took what they claimed were close-up photographs of winged fairies dancing amid the foliage.

Looking at the photographs today, even without the aid of laboratory examination, it seems amazing the photos are two-dimensional cardboard cutouts. Photography, however, was a novel art then and many believed “the camera never lies.”

With Doyle proclaiming their authenticity, the photos soon appeared in magazines and the world was exposed to the notion that fairies existed, confirmed by the camera. Although experts from the two major film companies examined the photographs, neither would confirm the photos were authentic.

By 1983, the cousins, then in their late 70s and early 80s, admitted in an article published in the magazine “The Unexplained” that the photographs had been faked, although both maintained they really had seen fairies. Elsie had copied illustrations of fairies from a popular children’s book. They said they then cut out the cardboard figures and supported them with hat pins, disposing of their props once the photographs had been taken. In 1985, Elsie said that she and Frances were too embarrassed to admit the truth after fooling a prominent intellectual like Doyle.

“I never even thought of it as being a fraud — it was just Elsie and I having a bit of fun and I can’t understand to this day why they were taken in — they wanted to be taken in,” Frances said.

Doyle’s desire to find support for his belief in the new technology of photography, led him to ignore rational assumptions even while he was writing about the deductive reasoning and use of forensic evidence by his character Sherlock Holmes.

Today, the role and application of technology in most any inquiry, particularly criminal investigation, is accepted as confirming, and often, conclusive evidence. Science does indeed take the edge off personal opinion. Sir Arthur Conan Doyle ignored the lessons of his creation, Sherlock Holmes, and ignored forensic evidence and suffered public humiliation for his oversight. 🌧️

*John Bizzack*





## Kentucky ABC Named Enforcement Agency of the Year

### SECOND CONSECUTIVE YEAR FOR NATIONAL RECOGNITION

The Kentucky Alcoholic Beverage Control Enforcement Division recently was awarded the 2010 National Liquor Law Enforcement Association Agency of the Year at their annual conference in Orlando, Fla., for its efforts in combating underage drinking and preventing illegal alcohol sales. This is the second national award in the past two years for the ABC, winning last year for the Law Enforcement Officer of the Year.

"This award recognizes Kentucky's proactive approach to underage drinking by combining efforts of the education and law enforcement divisions into a successful model," ABC Commissioner Tony Dehner said.

## ABC Awarded FDA Contract to Enforce Provisions of Tobacco Control Act

In September, ABC was awarded a \$428,278 contract by the Food and Drug Administration to enforce provisions of the Family Smoking Prevention and Tobacco Control Act of 2009. Under the law, tobacco retailers will be inspected to ensure they are complying with new marketing and sales standards. The FDA contract is awarded on an annual basis. Approximately 250 retailers will be inspected per month.



Troy Young

## Young Named KSA Sheriff of the Year

Anderson County Sheriff Troy Young was named the 2011 Sheriff of the Year by the Kentucky Sheriffs' Association. Young was elected sheriff in 2005 and has served Anderson County since 1992. He was nominated by his employees for his exemplary service to the county. Young helped with establishing a 24-7 patrol, merging with the county police department and constructing a training facility. "He is a professional at all times and is highly regarded as such by both the law enforcement community and the citizens that he serves," said Anderson County Sheriff's Sgt. Greg Boblitt in Young's recommendation letter.

## Godsey First Inductee into 911 Hall of Fame

Department of Criminal Justice Training Telecommunications Supervisor Betty Godsey was named the first inductee into the Kentucky 911 Hall of Fame for 2011.



Betty Godsey

The Kentucky Emergency Number Association and the Association of Public-Safety Communications Officials established the Hall of Fame this year.

Godsey was recognized for going beyond the call of duty to improve services and the overall image of telecommunications, and for encouraging those in the field. She was heralded across the state as a leader, teacher, mentor and inspiration at this year's Kentucky Emergency Services conference in September.

## GRANT FUNDING

### Nearly \$4 Million in Grants Awarded to Aid Law Enforcement



Sixty-five federal and state grants totaling more than \$3.5 million were awarded to police departments, sheriffs' offices and other criminal justice agencies across the commonwealth. A total of 41 Byrne/Justice Assistance Grants were awarded for 2011.

Examples of funded projects include the Kentucky State Police receiving \$470,000 to fight drugs, the Shelbyville Police Department receiving nearly \$7,500 for its forensic mapping program and the Crestview Hills Police Department in Kenton County receiving nearly \$2,000 for TASERs.

Numerous drug and narcotic strike forces across the state also received Byrne/JAG funding.

A total of 24 grants were awarded through the Law Enforcement Service Fee program.

The Carroll County Sheriff's Office received nearly \$1,000 for a portable breath test program, the Maysville Police Department received \$7,500 for in car digital video and the McCracken County Sheriff's Office and the Paducah Police Department received nearly \$18,000 each for their driving-under-the-influence programs.

Fayette County and Jefferson County law enforcement agencies each received nearly \$100,000 in grant funding.

"The Justice and Public Safety Cabinet is committed to assisting local law enforcement agencies across Kentucky as they perform the duties necessary to keep their communities safe," Cabinet Secretary J. Michael Brown said.





## Lexington Police to Get \$3.9 Million Grant to Hire 25 New Officers

Mayor Jim Gray announced that Lexington received a \$3.9 million federal grant to pay for hiring 25 new police officers, which would boost the department's strength to 550 officers.

The grant, which covers training and salaries for three years, is awarded by the Community Oriented Policing Services program.

"This grant will make an important difference here," Gray said. "It will make our community safer and it will allow us to make our excellent police force even better."

## Kentucky State Police Announce Employee Of The Year

Crestwood, Ky.- resident Bruce Olin was named 2011 KSP Civilian Employee of the Year. A 33-year veteran of the agency, Olin is a program coordinator with the Public Affairs Branch at KSP headquarters.

Olin spent 27 years with the agency as a state trooper, retiring in 2005 from the Electronic Crimes Branch. He returned in 2008 as a civilian employee and now serves as state coordinator for the Drug Abuse Resistance Education program. During the past year, Olin was notified that funding for the DARE program would be terminated. In response, he developed a contingency plan to keep the program in operation while new funding could be secured.



## ENHANCING COMMUNICATION

### Ten CSEPP Counties Receive \$4.6 Million in Federal Funding to Improve Emergency Operations



Kentucky's Chemical Stockpile Emergency Preparedness Program received \$4.6 million in funding to improve emergency communication tools and operations in 10 central-Kentucky counties.

The two grants will enhance radio communication and support emergency operation centers in these counties.

In one project, Kentucky received a \$2.1 million grant to bring its CSEPP counties into compliance with the U.S. Department of Homeland Security and the U.S. Department of Defense. The agencies require that all federally-funded communications systems meet federal requirements, which enable public safety responders to better communicate with each other.

The second grant, funded at \$2.5 million, will pay for all or portions of county emergency operation center projects identified by the commonwealth in cooperation with Federal Emergency Management Agency. The funding will support creating or improving centers in the 10 CSEPP counties.

For more information on CSEPP, visit [www.csepp.ky.gov](http://www.csepp.ky.gov) or scan the above QR code.

### Law Enforcement Agencies, Highway Safety Organizations Receive Federal Funding

More than \$2.9 million was awarded to 109 law enforcement agencies for overtime enforcement and equipment through federal grant funding. More than \$1.8 million also was awarded to 15 organizations involved with highway safety for various educational programs, equipment and training.

The Kentucky Office of Highway Safety awarded more than \$4.7 million to law enforcement agencies and highway safety organizations across the commonwealth to help bolster safety enforcement and education in local communities. The federally-funded grants from the National Highway Traffic Safety Administration are administered by KOHS.

## NEW CHIEFS

### **JULIUS M. BALDWIN**

#### **Junction City Police Department**

Julius Baldwin was appointed chief of the Junction City Police Department on Dec. 29, 2010. Baldwin began his law enforcement career with the Junction City police and has served the Boyle County Sheriff's Office and the Lancaster Police Department. He also served three years as chief of the Perryville Police Department. Baldwin has 19 years of law enforcement experience. Since taking office, Baldwin has put to use the mobile data terminals. He hopes to continue to update equipment through the use of technology. Baldwin said the use of MDTs has created a partnership between surrounding departments within the county, working toward a great rapport. His long-term goals are to add more staff and training for his officers.

### **DREW WOODS**

#### **Benham Police Department**

Drew Woods was appointed chief of the Benham Police Department on March 25. Woods has more than two years of law enforcement experience with Benham, moving through the ranks to become chief. He graduated from Southeast Kentucky Community and Technical College with an associate's degree in criminal justice and graduated from the Department of Criminal Justice Basic Training Class No. 421. Woods will seek grant money to enhance the department with better equipment and training for his officers, creating a safer environment.

### **KENNY RALEIGH**

#### **Cumberland Police Department**

Kenny Raleigh was appointed chief of the Cumberland Police Department on May 10. Raleigh has more than eight years of law enforcement experience. He began his law enforcement career at the Benham Police Department, and while serving the Evarts Police Department graduated from the Department of Criminal Justice Basic Training Class No. 357. Raleigh also served the Letcher County Sheriff's Office for two years. He graduated from Southeast Kentucky Community and Technical College with an associate's degree in criminal justice and is active in the National Guard. Since taking office, he has added more staff and looks forward to making the Cumberland Police Department the best law enforcement agency in Kentucky.

### **JAMES SMITH**

#### **Springfield Police Department**

James Smith was appointed chief of the Springfield Police Department on June 1. Smith began his law enforcement career with the West Buechel Police Department and has 26 years of law enforcement experience. He served the Mount Washington Police Department and retired from there as an assistant chief before coming to Springfield. In 2007 he was assigned to the state police drug task force. Smith graduated from the University of Louisville with a bachelor's degree in history and associate's degree in criminal justice. His long-term goals are to continue to combat the on-going drug issue and improve officer morale through pay, advancing

technology and training, while still cutting back the budget. Smith's main goal is to move towards community-oriented policing and go back to foot patrol in the city and in the schools. He looks forward to seeing Springfield enjoy the pace of a nice, small town in the future.

### **WILLIAM V. SHIFFLETT**

#### **Russellville Police Department**

William Shifflett was appointed chief of the Russellville Police Department on August 2. Shifflett began his law enforcement career in 1993 with the Russellville police, moving through the ranks to become chief. He graduated from Western Kentucky University with a bachelor's degree in interdisciplinary studies and from the Department of Criminal Justice Basic Training Class No. 225. Shifflett says his department is in great shape and will focus on community-oriented policing by providing seminars for the community to instill the basic knowledge of crime prevention.

### **CHRISTOPHER FULTZ**

#### **Manchester Police Department**

Christopher Fultz was appointed chief of the Manchester Police Department on April 18. Fultz began his law enforcement career at the Manchester Police Department and served the Operation UNITE Drug Task Force and the ATF Task Force for three years. He has 11 years of law enforcement experience. His primary goal is to implement community-oriented policing, provide his officers with the best equipment possible and provide for and protect the citizens of Manchester and Clay County.

### **TRACY SCHILLER**

#### **Elizabethtown Police Department**

Tracy Schiller was appointed chief of the Elizabethtown Police Department on August 15. Schiller began his law enforcement career with the Plantation Police Department in 1978. He served the Shelbyville Police Department and the Louisville Police Department before retiring in 2003 from the Louisville Metro Police Department. Schiller served the Regional Community Policing Institute for six years before being named chief of Elizabethtown. He graduated from the University of Louisville with a bachelor's degree in justice administration, from the Southern Police Institute AOC Class No. 65 and the FBI National Academy 200th session. Schiller would like to build upon the good reputation of the department. He also would like to increase and focus on data information. At this early stage of his tenure, he is getting input from his staff in hopes to move forward and do better.

### **TIMOTHY THAMES**

#### **Elsmere Police Department**

Timothy Thames was appointed chief of the Elsmere Police Department on August 15. Thames began his law enforcement career with the Erlanger Police Department, retiring as captain in 2010. He has more than 25 years of law enforcement experience. Thames graduated from the Southern Police Institute AOC Class No. 104. His primary goal is to pursue accreditation through KACP.



**RICHARD ALLEN POOLE****Clinton Police Department**

Richard Allen Poole was appointed chief of the Clinton Police Department on August 17. He has more than 10 years of law enforcement experience. Poole began his career with the Fulton Police Department and served as a detective at the Graves County Sheriff's Office before being named chief of Clinton. He is a graduate of the Department of Criminal Justice Basic Training Class No. 321, with distinction; Department of Criminal Justice Training Telecommunications Academy Class No. 13, and a distinguished graduate of the Lewis F. Garland Department of Defense Fire Academy, 177th Fire Team, in San Angelo, Texas. Poole is a firefighter with the National Guard. His long-term goals for the department are to implement community-oriented policing principles and modernize the department.

**DONNIE TINNELL****Lebanon Junction Police Department**

Donald Tinnell was appointed chief of the Lebanon Junction Police Department on August 21. Tinnell has more than 30 years of law enforcement experience. He began his law enforcement career at the Shepherdsville Police Department as an officer, moving through the ranks to become chief. He also served the Louisville Metro Police Department, retiring in 2006. After retiring from Louisville, he has since served as sheriff of Jefferson and Bullitt counties. His primary goal is to work toward keeping the

things the department has. Prior to Tinnell being name chief, the department received new cars and equipment and a new police station. Tinnell hopes to make a difference by improving training and modernizing the department.

**ERNEST FOX****Irvington Police Department**

Ernest Fox was appointed chief of the Irvington Police Department on Sept. 6. Fox has more than 20 years of law enforcement experience, beginning his career at the Hillview Police Department as a part-time officer. He retired from Louisville Metro Corrections in 2008 after serving eight years. Fox wants to maintain progress and provide the best services possible for Irvington.

**LESLIE SINGLETON****Brandenburg Police Department**

Leslie Singleton was appointed chief of the Brandenburg Police Department on Sept. 12. Singleton began his law enforcement career with Brandenburg in 2002 and later was promoted to sergeant in 2006. Prior to coming to Brandenburg Police Department, Singleton served the Bullet County Jail for two years, and he also has served the volunteer fire service for 20 years. He graduated from the Department of Criminal Justice Basic Training Class No. 334. Singleton plans to add more staff and get more involved in the community through community-oriented policing.

**KLEC NEWS****Membership of Kentucky Law Enforcement Council Expanded**

Gov. Steve Beshear signed an executive order expanding membership of the Kentucky Law Enforcement Council to include representatives of the state's other three law enforcement training academies. The Kentucky State Police already was represented on the council. The executive order adds representatives of the Kentucky Department of Criminal Justice Training, the Lexington-Fayette Urban County Government Division of Police and the Louisville Metro Police Department to the council. The KLEC governs training for all of the state's law enforcement. The council is charged with certifying or approving law enforcement training schools, training instructors and curriculum, as well as administering the Peace Officer Professional Standards certification process. It also monitors the Kentucky Law Enforcement Foundation Program Fund.

**Brewer Earns Shein Award**

Kentucky State Police Commissioner Rodney Brewer recently was honored with the 2011 Melvin Shein Award. Given by the Kentucky Law Enforcement Council, the Shein Award is presented for distinguished service in the field of law enforcement in the commonwealth. Since he was appointed commissioner in 2007, Brewer has been instrumental in a variety of agency improvements, including the Trooper R program, which re-employs retired troopers to increase manpower on the road, the establishment of the Citizens' Police Academy and the acquisition of a new training facility. "His leadership skills and vision have surpassed all past commissioners in my 21 years with Kentucky State Police," the recommendation letter states. "His professional and personal contribution to law enforcement is evident in his dedication and commitment to leave things better than he found them."

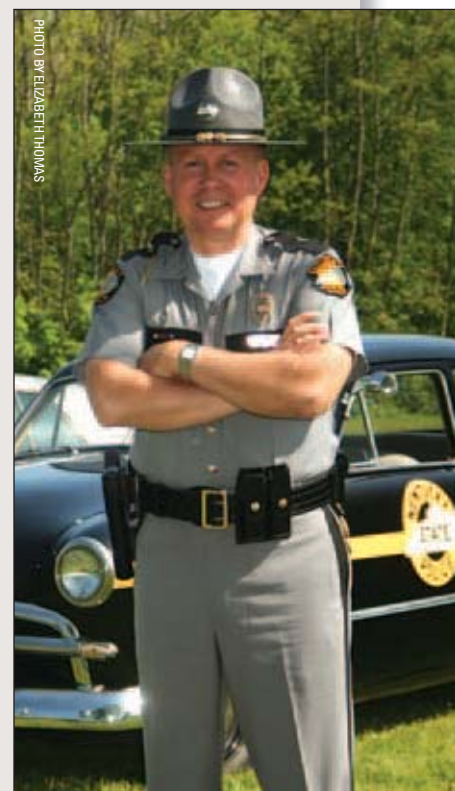


PHOTO BY ELIZABETH THOMAS

## KLEC Presents CDP Certificates STAFF REPORT | KLEC

The Kentucky Law Enforcement Council's Career Development Program is a voluntary program that awards specialty certificates based on an individual's education, training and experience as a peace officer or telecommunicator. There are a total of 17 professional certificates; 12 for law enforcement that emphasize the career paths of patrol, investigations, traffic and management; and five certificates for telecommunications. The variety of certificates allows a person to individualize his or her course of study, just as someone would if pursuing a specific degree in college.

The KLEC congratulates and recognizes the following individuals for earning career development certificates. All have demonstrated a personal and professional commitment to their training, education and experience as a law enforcement officer or telecommunicator.

### INTERMEDIATE LAW ENFORCEMENT OFFICER

#### Bowling Green Police Department

Tammy R. Britt  
Greg E. Claywell  
Michael E. Keffer  
Norman L. Simpson

#### Carrollton Police Department

James A. Stigers

#### Fulton Police Department

Dennis R. McDaniel

#### Louisville Metro Police Department

Manley W. Berthold  
Andrew S. Boggess  
Kevin T. Casper  
Matthew J. Keller  
Kevin L. Mumphy

#### Meade County Sheriff's Office

Jason S. Graham

#### Nicholasville Police Department

Eric T. Justice

#### Owensboro Police Department

Arthur E. Ealum

### ADVANCED LAW ENFORCEMENT OFFICER

#### Bowling Green Police Department

Greg E. Claywell  
Michael E. Keffer  
Norman L. Simpson

#### Harlan Police Department

George M. Thomas

#### Owensboro Police Department

Arthur E. Ealum  
Adam S. Johnston  
Jeffrey D. Payne

#### Western Kentucky University Police Department

Johnny W. Vance Jr.

### LAW ENFORCEMENT OFFICER INVESTIGATOR

#### Bowling Green Police Department

Greg E. Claywell  
James L. Napper  
James C. Pearce Jr.  
David S. West

#### Covington Police Department

Nicholas R. Klaiss  
William G. Webster

#### Frankfort Police Department

Alan R. Burton

#### Harrison County Sheriff's Office

Theodore P. Olin

#### Hopkinsville Police Department

Randall E. Greene

#### Independence Police Department

Todd E. Bennett

#### Lexington Division of Police

Jeremy M. Russell

#### Nicholasville Police Department

Eric T. Justice

#### Radcliff Police Department

Ralph W. Craig Jr.

### LAW ENFORCEMENT TRAFFIC OFFICER

#### Harlan Police Department

George M. Thomas

#### Louisville Metro Police Department

Gregory A. Raque

#### Shively Police Department

Theodora Laun

### LAW ENFORCEMENT SUPERVISOR

#### Louisville Metro Police Department

Joseph K. Manning  
Owensboro Police Department  
Arthur E. Ealum

#### University of Kentucky Police Department

Charles N. Brown

### LAW ENFORCEMENT MANAGER

#### Louisville Metro Police Department

Barry Madden

#### Owensboro Police Department

Arthur E. Ealum

### LAW ENFORCEMENT EXECUTIVE

#### Owensboro Police Department

Arthur E. Ealum

### LAW ENFORCEMENT OFFICER ADVANCED

#### Bowling Green Police Department

Greg E. Claywell  
James L. Napper  
David S. West

#### Jeffersonton Police Department

Ted B. Spegal

## Customs Officer Wins Competition Shoot

The Department of Criminal Justice Training conducted its 20th annual competition shoot in September, raising \$1,500, with the majority of the proceeds going to the Kentucky Law Enforcement Memorial Foundation. Twenty-six law enforcement officers from 15 agencies participated in the competition.

Sean Lichner (pictured at right), U.S. Immigration and Customs Enforcement agency, won the individual and combat competition. Jeremy Abell, Bowling Green Police Department, finished second and Mike Klein, retired Kentucky State Police, finished third. In the combat-shoot competition, Lichner and Klein tied for first with Lichner winning the tiebreaker.

Klein won the retired officer competition for the second year in a row.

Bowling Green Police Department's Abell and Bernie Wiedemer claimed the team championship.





## Prescription Advisory Council Created

Gov. Steve Beshear issued an executive order in October creating an advisory council of doctors, pharmacists, nurses and law enforcement to recommend guidelines for determining irregular prescribing habits through the state's prescription drug monitoring system.

A recent report from the Kentucky Department for Public Health said more Kentuckians are dying as a result of drug overdoses than those who have died from injuries sustained in motor-vehicle accidents. The rate of drug-induced deaths has steadily risen from 2005 to 2009, while the number of motor-vehicle deaths continues to decline.

The council will work with the Cabinet for Health and Family Services, which administers the state's drug monitoring program, Kentucky All Schedule Prescription Electronic Reporting. The council's recommendations will better enable KASPER administrators to flag unusual prescribing habits and submit them to the appropriate medical licensure board for further review or criminal investigation.

KASPER has been an excellent tool for tracking prescription drugs, Beshear said, but the advisory group will fill a gap in the program's effectiveness in targeting doctors who are participating in criminal activity.

The advisory board will work with KASPER officials and law enforcement professionals to create guidelines for generally accepted practices among different medical disciplines. These criteria will be used to guide when a prescriber or dispenser's KASPER reports may be flagged for unusual prescribing activity.



## Basketball Tournament Looking for Teams

The Kentucky Law Enforcement Invitational Tournament will be conducted this January in Bowling Green, Ky. The historical basketball tournament has been played in January for 25 years and its teams are comprised of law enforcement from across the state. If you would like to get involved, call Lexington Division of Police Detective Robert Goggins at (859) 258-3548.

## NEW SUPERVISOR

### Roy Jude Serving as New General Studies Supervisor



Roy Jude

On Sept. 1, Department of Criminal Justice Training Instructor Roy Jude was promoted to section supervisor in General Studies.

Jude joined DOCJT in 2007 from the ITT Technical Institute, where he served as the department chair of the School of Criminal Justice. He retired in March 2005 from the Winchester Police Department, where he was a training captain.

"I feel honored to represent the Basic Training Branch and the instructors of the General Studies Section," he said. "I am looking forward to participating in the future developments of law enforcement training to ensure it meets the needs of Kentucky communities."



# HAVE YOU HERD?



**A**ppointed by the State Board of Agriculture, Dr. Robert Stout has served as the Kentucky

State Veterinarian and Division of Animal Health executive director for seven years. Regulating the health of Kentucky's animals ranging from horses to honeybees, and just about everything in between, the Division of Animal Health and the approximately 30 inspectors and five law enforcement investigators in the division have a big job. They ensure Kentucky remains a place where commerce and recreation using animals is safe and thriving. The investigators within the division are a widely unknown group of individuals who enforce laws that are mostly unknown to Kentucky citizens.

But, the jobs they perform pose challenges and provide a unique and important service to the commonwealth. >>

PHOTO BY ELIZABETH THOMAS

## Profile of the Kentucky State Veterinarian Dr. Robert Stout

ABBIE DARST | PROGRAM COORDINATOR



**>> What are the primary responsibilities of the state veterinarian?**

I am chief executive officer of the state Board of Agriculture, and that means that I'm responsible for enforcing its statutes and regulations, which primarily are KRS 257 and KAR 302.

Within those, we deal with animal disease programs, the movement of animals within the state, animals coming into the state and the licensure and inspection of stockyards and markets. Also, we deal with various disease prevention programs for producers, like the National Poultry

Improvement Program or NPIP, brucellosis certification and tuberculosis accreditation for cattle producers. Essentially, our mission statement says we are supposed to prevent and respond to animal disease issues in the state and promote an environment in which commerce and recreation using animals can happen.

**What divisions and/or programs are contained within the OSV?**

We have two divisions — the Division of Producer Services, which was new just before I came in 2003, and the Division of

Animal Health. Basically, the administrative staff and office staff are under producer services, and the Division of Animal Health is, by and large, the field staff and the veterinarians we employ.

**What are the primary responsibilities of the staff under the Division of Animal Health?**

The field staff's duties include the inspection of livestock markets. We have 48 livestock markets in Kentucky, which is a large number. Some of those are very small and some are very large. Bluegrass Stockyards in Lexington is the largest stockyard east of the Mississippi River. We have a presence every sale day at all the markets, for at least some part of the day. In addition, we have monthly inspections. The monthly inspections have been assigned to the enforcement officers. They don't do them all, but they do most of them.

We also have Kentucky-approved horse sales, which commonly happen at stockyards, but they are a sale separate from the stockyard's administration. Those have slightly different regulations we enforce.

If there is any kind of disease outbreak, we certainly have a response mode. The field staff are assigned and dedicated to address whatever the issue is. A lot of the programs that we have through either private practitioners, or maybe by the USDA, are at least assisted by our field staff.

Within that field staff, we have an equine division headed by Rusty Ford, that primarily handles equine functions, whether it is horse shows, trail rides, those kind of things. The equine division primarily takes care of the horse park and state fair, but we also use the agriculture inspectors to support them because there are only four people in the Equine Inspectors Branch.

We have a Poultry Section headed by Sue Blair. She also administers the NPIP.

We have a large presence at not only the state fair, but also local shows and



◀ The Kentucky Office of the State Veterinarian, located in Frankfort, houses the Division of Animal Health. The DAH's five investigators are a widely unknown group of law enforcement officers tasked with enforcing the state's laws on animal health and safety across the commonwealth.

fairs when they start around May, leading up to the state fair. We inspect animals there, too. I think about 110 counties have their own fairs, and we have some presence at all of them. We are not necessarily there the entire time it's going on, or everyday, but we have some presence.

**If fairs take place in spring and summer, what is the inspector role for the rest of year?**

A lot of it has to do with our stockyards, which go on year round. In spring and summer it is double duty, and the inspectors are spread thin. For one thing we are understaffed. I have 60 positions and 45 people. That's true across the department. We have 319 positions across the department and have 250 employees. That's budgetary.

**The investigators with the Division of Animal Health are a widely unknown group of officers. When and how did the enforcement portion of the Division of Animal Health come about?**

When I first came here in 2003 as homeland security coordinator, the enforcement officers were in flux. Historically, our investigators had been the supervisors of our now five sections. At one time we had seven sections. Previous statutes said that the state veterinarian could assign certain personnel to be peace officers. This was largely done back in the days when we had brucellosis in Kentucky and we were doing a lot of field testing. Some farmers did not want to test their animals, and it became very difficult for us to make the producers understand that they had to do this.

So, our peace officers preformed those functions. Usually there was no question when the peace officer arrived that the farmer had to test his cows.

Well, that need went away when we weren't doing brucellosis testing anymore. Brucellosis testing was very active in the 1970s and into the 80s. Testing went into the 90s, and we were declared free in 1997. But in 2003, legislation was passed that created not only the Division of Producer Services, but also provided

for a branch of investigators. At that time some of the officers who had been supervisors, elected to be grandfathered in to be part of that branch. When I came here we had a branch manager and eight investigators. Through attrition that is down to five. I assigned the duty of supervising them to the five area supervisors in our five sectors — they supervise the investigators and inspectors in their sector. The old law said the state veterinarian had authority to appoint the officers. We changed that to the Kentucky Department of Agriculture commissioner. The commissioner has the hiring and firing authority in the department, so it was more appropriate that he hire and fire those people, too.

**What are considered routine duties of the investigators?**

The specific things that our investigators are supposed to enforce are all KDA statutes and regulations. In addition, they may enforce KRS Chapter 514 related to theft cases involving animals; KRS Chapter 525 related to animal cruelty, mistreatment or torture; and KRS Chapter 516 related to forgery of animal health certificates. A lot of what we inspect are documents, and people forge them. Possession of forged documents can be a misdemeanor or even a felony — it is a serious thing.

There are other areas within KDA that the investigators could be useful. For example, in markets they regulate ginseng. Ginseng is a valuable plant root product. To preserve the naturals in ginseng we have in Kentucky, which is the best quality there is, it has to be regulated as to when people harvest it or it's valuable element will go away. A lot of people cheat, so it can be very contentious. You are talking considerable money. They sold something like \$200,000 worth of confiscated ginseng a year or two or ago. There is opportunity for them to need a police officer because it is potentially contentious and maybe even dangerous. We've never done that, but that was the thought process to give them authority within the whole department.

Some things have changed. When I came here, the enforcement officers were doing a lot of road work. Road work is by assignment. We still do some, but we don't routinely sit on the side of the road stopping horse vans. There are a couple of >>

*The specific things that our investigators are supposed to enforce are all KDA statutes and regulations. In addition, they may enforce KRS Chapter 514 related to theft cases involving animals.*

>> reasons for this. The primary portals into the state, whether Louisville, Cincinnati or even Bowling Green on interstates 65, 64 and 75, are not safe to be pulling over people pulling trailers. So, we de-emphasized that.

That being said, we had a situation here in 2003. There was a very large Arabian show at the horse park. A disease outbreak came up in Texas shortly before the show that severely, by our law, limited their ability to come. We managed to get an emergency regulation passed to allow some animals from Texas to come. Then to make sure we were not getting any diseased animals, we actually set up a check station in the Bowling Green area on Interstate-65, and manned it with our enforcement officers, because they had the ability to stop people. We diverted the animals coming into the state from there to a safe location. I think we used Kentucky Downs. We examined their papers, examined their animals and put them back on the road. We stopped everyone that came into the state. That situation was real, and it showed the ability of our officers to do that in a situation where the need dictated it. I had nine officers then, and that made it a little bit easier.

We have Explorers that are fully equipped with communication equipment and blue lights, the whole nine yards — even a cage. Our previous vehicles did not have cages and that concerned me. What if one of my officers made a routine stop of a couple of men hauling horses? What if he goes up to them and it is obvious that the driver is drunk, and there are two of them? While he is taking care of one, the other one is vamoosed or maybe has snuck up behind him. We had no way of securing anyone. Now we can. We can secure somebody if we need to. We can transport somebody if we need to, but we don't want to. If that situation happens, our officer's first call is for back up from local law enforcement, but there may be a need to secure the situation. I pushed hard to get the vehicles and have them equipped the way they are. You only need one time to need it.

As for animal issues, in the North American International Livestock Exposition dairy cow show, they examine the cows' udders with ultrasound because people cheat. Part of the examination of

the judging has to do with the cow's udder and what it looks like and feels like. People inject all kinds of things into the udder to make it look like they think it should, to make it pretty — but it's illegal. So, when they do the ultrasound investigation, some people get caught, and they get upset. They were causing the inspectors a lot of grief. Well, we put one of our officers there and the conversation stopped, just because of the law enforcement presence. Once they did have an altercation where they ended up having to call Louisville Metro police to do something about it.

A couple of years ago, we had a ruling from our legal staff that we could issue administrative violations. We usually do not write a citation that has to be taken to local court. We write administrative violations that have automatic fines attached to them. The person can contest them and have a hearing here in my office if they don't agree with it. But these things, many times, did not rise very high on the agenda of the county attorney. Sometimes, in local jurisdictions it is hard to get a jury, so administrative violations work much better. Also, our investigators keep

PHOTO BY ELIZABETH THOMAS





stressing they cannot write a citation unless they are witnesses. If my agriculture inspector sees a violation and needs a citation written and he calls my officer over to write it, since the officer didn't see it, he can't write the citation. So, that was one of the main reasons we went to administrative violations and away from citations because we didn't have enough people.

Those are the primary things assigned to police officers, in addition to maintaining their Peace Officer Professional Standards certification status.

**What makes these officers want to come and serve the Division of Animal Health if they don't have any experience in agriculture?**

It's variable. In some cases, it has actually been money. We may have paid better than some local police or sheriffs' offices. Undoubtedly, that was part of it. To me, it is the best of both worlds. The risk is considerably less, the pay is as good or better and the hours are probably better. The environment in most cases is different, but I wouldn't say better. You're not scooping people up off the highway, but

you are working in animal environments, which, if you're not used to them, are challenging for some people. There is no one reason, but if I had to say, I would think salary is a large component, if not the driving force.

**What is the base salary for an officer who works in this division?**

There are different levels — Investigator I, II and III. It's going to vary, but I would say roughly our officers are paid between the low 30s and low 40s.

**What types of animal abuse does the OSV encounter? Are the enforcement officers the only ones who deal with/answer calls about animal abuse?**

The primary thing that we would encounter under an abuse statute would basically be not caring for, feeding or providing for the needs of an animal. Whether that be nutritional or environmental. In most cases it is nutritional.

**Is that strictly related to things that are livestock or poultry, or does it cover the gamut of animals?**

That is a gray area. We typically do not consider ourselves to have authority over pets. That said, we have on occasion responded to those. KRS Chapter 525 is not the best statute ever written. It has some things that need to be looked at. But, it is what we have. It applies to large animals and small animals. The Animal Control Board deals much more with small animals. Most of the small animal things we would address would be at shelters. Typically, whenever we have any type of an abuse case, large animal or small animal, we work with local law enforcement, whether that be an animal control officer or the local sheriff's office.

Cockfighting usually falls to state police. That's not to say that other local law enforcement wouldn't be involved. >>



◀ State Veterinarian Robert Stout peruses the animal exhibitions at the Kentucky State Fair in August. Stout is responsible for overseeing the agriculture inspectors and five investigators of the Division of Animal Health.

**>> With only five enforcement officers to cover the entire state, do they frequently interact with other law enforcement agencies throughout the state?**

We encourage our officers to have a working relationship, especially with sheriffs' offices and local emergency management. That's not a problem. In most cases they like associating with their peers. Most of them are very knowledgeable about who the sheriffs are, who the deputies are and who to call.

We don't hear a lot from local law enforcement directly. For the most part, if we get the complaint here, we go to them with it because they probably have already had the complaint and investigated it. There's no point in us doing it again if it's unfounded. But, we respond anytime we get a complaint. The only ones we usually do not respond to are the anonymous complaints. If the person is serious enough, they should be able to give us contact information so our officer can go

to them and say, "Show me, tell me what I'm looking for." There have been cases where they just wouldn't, but it seemed serious enough that we did investigate. By and large, our process is: The complaint is logged in, it is assigned to the area supervisor and then to the officer. Their first contact is with local law enforcement in the area, either the animal control officer or sheriff's office to ask if they know about the complaint and how they can help them.

Our officers have all been trained in body condition scoring. At least some of them have been to the Horse Council's training offered together with Kentucky Cattleman's Association, which is mostly offered to animal control officers who have no experience with livestock, to give them some basic knowledge of what they're looking at. The training helps them evaluate if what they see is abuse or if it is just the way cattle look.

**What is the OSV's role in Kentucky's special events that pertain to animals/livestock? What are the biggest events hosted by Kentucky?**

The granddaddy of them all was the World Equestrian Games, but that's history now, and it went well. But, the Kentucky State Fair and the North American International Livestock Exposition are the largest annually. There will be as many as 15,000 animals at the NAILE. At the state fair, we are probably in excess of 5,000 animals.

There are a couple other large events in the spring: Dairy National, Beef Expo and sheep and goat shows. There is an alpaca/llama show — we work all of those. Some of the local fairs even are pretty big. Those kind of things are obviously a priority.

The horse park is continuous. We have a presence there, but not totally during the winter when not so much is going on. With the new facilities they now have, there will be something going on most all the time. You think about the WEG being big, and we had 800 to 900 horses on the grounds for that event. However, we routinely,

◀ Dr. Robert Stout has served as the Kentucky State Veterinarian since 2004. He has made a big push for the investigators with the Division of Animal Health to be properly equipped for whatever they may face on the job.



*I don't think we've ever had an officer draw a gun, certainly never had one shoot. I doubt many have had their lights and sirens on. But there is definitely a need for us to have these officers.*

every weekend, have 1,200 to 1,400 horses at the Horse Park from all over the United States. So, we have a mobile command center, which is a FEMA trailer, that we have stationed at the Horse Park, and we man that basically every day for parts of the day, planning on when people will be coming in for the event that weekend. We look at the Certificate of Veterinarian Inspection on every horse and make sure that it meets the qualifications to come into Kentucky and to enter the Horse Park. If there is any question on the health of the animals, we look at the animals, and we call a veterinarian to look at the animals. We routinely will go through the barns, talk with the owners and talk with the veterinarians to address any issues.

**What are the biggest challenges facing the Division of Animal Health and its investigators?**

This is where it gets interesting. We have had meetings with other state agencies, such as the Kentucky Department of Parks, the Kentucky Department of Fish and Wildlife Resources, the Kentucky Office of Alcoholic Beverage Control — other agencies that employ peace officers. The peace officer definition is different in different places in the statutes. There is no real commonality. What is the responsibility of a police officer, outside of their assigned duties — whether they be by policy or by statute in my case?

For instance, if one of my officers sees someone drunk driving on Interstate-64, what is he supposed to do? I don't want our officers chasing them. I don't really want them pulling a suspected drunk driver over, but I can't ask them to ignore it, either. They are supposed to report it, keep the person in sight and respond with other officers, as appropriate. There has to be some discretion in it.

Same thing with speeders. I don't want them pulling someone over for going 72 — I

don't want them pulling speeders over, period. But, if they see somebody driving 85 or 90 mph down the interstate, I expect them to get on the radio, call local law enforcement and tell them what the driver is doing. If local law enforcement says, "Keep them in sight and we'll meet you at exit 53," that is fine. That is not our officers' duty to do, but I think there are some responsibilities.

There is even some case law they have quoted to me many times. One involved a Kentucky Vehicle Enforcement officer before they were under state police, and it involved a drunk driver. The officer had been instructed by his department not to respond to it, and the judge told him he HAD to — he absolutely had a moral and a legal obligation to respond.

One of the things I have been told is that officers always have to deal with domestic violence situations if they see it or are there. As I understand it, that is part of the qualification to be a peace officer under some section. Well, we get into the situation at the state fair with people walking around the barn drinking beer. When people drink beer and they are staying the night in the barn and it is 10 p.m., you've got the chance for a husband to get upset at his wife, kids or someone else and maybe start slapping the hell out of them. If my officer is there, is he supposed to call security while the guy beats the hell out of his wife? I don't really think so.

So, it is not clear and it has caused issues. And not just for us, but also for other agencies that have POPS-certified peace officers and how they respond outside their assigned duties. It's complicated. And it's complicated for the officers, too. Because they don't have a clear understanding of what they are supposed to do in various situations. We've tried to lay that out for them, but it still is not easy.

I don't think we've ever had an officer draw a gun, certainly never had one shoot. I doubt many have had their lights and sirens on. But, there is definitely a need for us to have these officers. That need is not every day, 24 hours a day, but, they have been a valuable resource to us in many areas, especially from the standpoint of mitigating potentially adverse situations. 🐾

Abbie Darst can be reached at [abbie.darst@ky.gov](mailto:abbie.darst@ky.gov) or (859) 622-6453.





# THE DIFFICULT RESPONSE

**UNCLEAR LAWS, JUDICIAL LACK OF SUPPORT AND AN UNINFORMED PUBLIC MAKE ENFORCING KENTUCKY'S ANIMAL ABUSE STATUTES DIFFICULT FOR OFFICERS IN THE COMMONWEALTH**

**ABBIE DARST | PROGRAM COORDINATOR**



Filth, blood, disease, desolation — death. No descriptors can fully capture the deplorable conditions to which some of Kentucky's animals have been subjected.

From so-called county shelters and personal rescue kennels to gambling rings where animal mutilation is sought for sport, and careless or overwhelmed farmers with degenerating livestock — the treatment of Kentucky's animal population and the laws that govern that treatment present numerous challenges to law enforcement officers across the state.

#### CRIMINAL ENTERTAINMENT

Some cases of animal abuse become national news, and they spark awareness and spur the public into action. Cases like the 2007 indictment of NFL Quarterback Michael Vick for extreme cruelty to dogs and running a dog fighting operation named Bad Newz Kennels in Virginia, bring animal abuse issues to the forefront and expose acts that happen every day throughout the United States. In addition to the more than 50 scarred, injured and underfed dogs; blood stained fighting areas; and performance enhancing drugs police found on Vick's property, he was also held responsible for killing dogs that didn't perform well in fights. A U.S. Department of Agriculture investigator provided more details on the April 2007 killings, saying that the men hung approximately three dogs "by placing a nylon cord over a 2 by 4 that was nailed to two trees located next to [a] big shed. They also drowned approximately three dogs by putting the dogs' heads in a five gallon bucket of water," the search warrant described. They also killed

one dog by "slamming it to the ground several times before it died, breaking the dog's back or neck."

In Vick's case, like many animal fighting cases, the clandestine operation went undetected until law enforcement discovered it while investigating another crime.

Kentucky's animal fighting laws fall under the cruelty to animals statutes in KRS 525.125 and 525.130. However, it is the wording of these statutes that make it complicated when law enforcement officers discover other types of animal-fighting organizations. Across Kentucky, cockfighting rings and communities that support the events are prevalent. Over the past several years, numerous busts have been made on cockfighting rings across the state.

In Montgomery County, Kentucky State Police raided the 700-seat arena formerly named Spring Brook Farm in April 2005, charging the owners with running a criminal syndicate and citing more than 500 spectators with animal cruelty. According to news reports, the arena was built in 1992 and operated for years with the knowledge of many in and around the area. The arena attracted hundreds of out-of-town visitors, and the business it brought into the area was a huge boost to the local economy in Jeffersonville, a town of only about 2,000 residents. It was said that motel rooms, restaurants and gas stations experienced booming business anytime there was an event at the Spring Brook Farm.

After KSP raided the establishment, District Judge William Lane threw out the charges against the more than 500 spectators, saying the animal-cruelty law was unclear.

KRS 525.125 says a person is "guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit." KRS 525.130 states a person is "guilty of cruelty to animals in the second degree when ... he intentionally or wantonly ... participates other than as provided in KRS 525.125 in causing [any animal] to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four-legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat." >>

## Animal Abuse: A Precursor to Domestic Violence?

Studies say animal abusers are likely to commit domestic violence and other violent crimes. Police have found animal abuse is a better predictor of whether someone will commit sexual assault than previous convictions for murder or arson.\*

- 70 percent of animal abusers were found in one 20-year study to have then committed other crimes, and 44 percent went on to harm people.
- 99 percent of animal abusers had convictions for other crimes.
- 100 percent of people who committed sexual homicide had abused animals.
- 61.5 percent of animal abusers had assaulted a human as well.
- 63.3 percent of inmates in one prison study who were in for violent crimes admitted to abusing animals. This doesn't include the ones who didn't admit it.
- 71 percent of women in a battered women's shelter reported their abuser either abused a household pet or threatened to abuse a pet.
- 88 percent of child abusers also abused the animals in the home. ■

\*Statistics taken from the Animal Law Coalition website at [www.animallawcoalition.com](http://www.animallawcoalition.com).



PHOTO BY JIM ROBERTSON

▲ Filth and disease were rampant in the old Robertson County animal shelter. These three secluded kennels were used to house numerous dogs, providing no outside running space, no ability to clean the area and little hope of adoption.



PHOTO BY JIM ROBERTSON

▲ The outside of the previous Robertson County animal shelter was just an old shack with dirt floors and no protection from the weather for the animals housed inside.

>> Since roosters can be described as having only two legs, Lane said that the animal-cruelty statute did not apply to cockfighting. But, in a 1994 case, *Munn v. Com.*, 889 S.W.2d 49, the Court looked at the overall definition of animal in KRS 446.010 which includes “every warm-blooded living creature except a human being,” and agreed that cockfighting by this definition did fall under second degree cruelty to animals.

“I think cockfighting in general is pretty common in the state of Kentucky, but I don’t think it’s dealt with very often by law enforcement,” said KSP Detective Sgt. Jere Hopson with Drug Enforcement/Special Investigations West. “There are no good laws that are written up. Our legislators haven’t defined any good laws that pertain to cockfighting. So, it’s kind of a gray zone.”

Despite the discrepancies in the law, law enforcement officers face other challenges to identifying, locating and witnessing cockfights throughout the state. As in the case in Montgomery County, with the economic benefit the area received, the probability of someone filing a complaint about the establishment is highly unlikely. As law enforcement as a whole is becoming more intelligence led and understaffed, KSP Post 8 Capt. Bob Murray said that events of cock or dog fighting could only be discovered and investigated if stumbled upon during another investigation or if a substantial complaint was received regarding it.

“I don’t think you’ll ever see, in these times of limited man power and limited budgets that there would be a cockfighting task force,” he said. “Do I think that the problem



exists? Absolutely. Do I think we should respond to them and deal with them? ... Absolutely.

"We are pro animal, but, not that they're not worth our response — they are — but you weigh the balance of, do we put our efforts toward the war on drugs or the less dominate cock/dog fighting?" Murray continued. "Not to say that it's not going on and not serious because it is, but we get a lot fewer complaints in regard to those things."

And when an economy receives the positive benefits that Jeffersonville did from its arena, complaints are going to be few and far between, if any are received at all.

In July 2010, KSP investigators carried out a large scale operation plan on a cockfighting operation in Edmonson County, citing 93 individuals, after officers witnessed cockfighting at past events in the location. However, en route to the property on which the event was taking place, the numerous units passed a country store several miles from the location, Hopson said. Someone from the store placed a call to the cockfighting establishment warning the owner and participants that law enforcement was on the way, allowing many spectators to get up and run, he said.

"Often they have community support for what they're doing," Hopson said.

"It is an underground network and ... the other side of this is the victims in these crimes are the animals," Murray said. "To the people that go to them and enjoy it, they don't see it that way. We don't have a lot of complaints because it's voluntary. I'm not advocating it, but we're not going to get a lot of complaints for dog/cock fighting because to the people who attend those events, that's their thing. If everything is consensual, for lack of better terms — people there gambling, drinking and having a good time — they go on about their business."

It is these other events that take place at cockfights that generally make busting cockfighting operations easier and more substantial for law enforcement.

"When people are fighting cocks, there's more at stake than just fighting a couple of chickens; there's a reason they do that, and it's money," Hopson said. "Not because they are getting money to fight chickens, but because there is heavy betting going on. Behind the scenes ... you have organized crime going on for the purposes of receiving money for gambling proceeds."



PHOTO BY JIM ROBERTSON



PHOTO BY JIM ROBERTSON

"So it may not seem that big a deal that [someone's] going to pay \$5 to watch a couple of chickens fight," he continued. "But when you find out [he is] waging \$1,000 per fight and may walk out with \$10,000 to \$15,000, it starts to become a little bit more imperative. When we get to talking about big money, that's when we get major drug things going on, people getting >>

▲ With more than 300 dogs logged into the new shelter in just two years, Robertson County's new shelter has given dogs like these the ability to be adopted into caring homes.





PHOTO BY JIM ROBERTSON



PHOTO BY JIM ROBERTSON

>> killed. With any illicit activity, when you get to talking big money, those are the things that go on, on the outskirts.”

In addition to the 93 misdemeanor citations written for animal cruelty at the 2010 bust in Edmonson County, Hopson said there were several felony charges as well, such as organized crime and promoting gambling.

“Our office looks at more serious crimes,” Hopson said. “We don’t believe any crimes are OK, but we primarily look into mid- and upper-level drug dealers. What we have found is that often mid- and upper-level drug dealers participate in such acts as cockfighting.”

### THE HOPE OF HELP

KRS 525.130 also covers many other forms of abuse unrelated to fighting animals. In recent years, numerous county animal shelters and private, so-called rescue shelters have been brought to public attention for the extreme neglect and inhumane conditions to which dogs and cats have been subjected.

In March 2008, police raided a Jackson County private animal shelter, Animal Assist, and found more than 115 starving, disease-infected dogs — 40 of the dogs were found dead or dying. Seventeen dead dogs were found inside the home with 13 of those found inside a freezer in the home’s basement. Outside, dozens of other dogs had apparently been eating the remains of the other dead dogs, news reports said. The owners were charged with 117 counts each of animal cruelty.

In 2004, Kentucky adopted a Humane Shelter Law intended to provide increased protections to the stray and abandoned companion animals of the state. The legislation required every county to operate, or enter into agreements with other counties operating, an animal shelter that meets minimum standards for basic care, such as the provision of food, water, shelter, public access and proper euthanasia. Counties were given three years to comply with these standards.

However, well after the three-year deadline, many counties throughout the commonwealth

▲ In 2010, the newly built Robertson County Animal Shelter received its certificate of occupancy, providing a cleaner, safer environment for the county’s rescued animals.

◀ Robertson County Dog Warden Staci Johnson interacts with one of the pets at the shelter. Her determination, hard work and care for the animals has made a huge difference in Robertson County’s shelter.

had made no efforts to meet any of the new standards — or to change anything at all about the inhumane conditions of their shelters. In August 2008, fed-up citizens decided to file lawsuits against Robertson and Estill counties, taking their counties to task for failing to provide basic, humane conditions for stray cats and dogs.

In Robertson County at the time of the lawsuit, the animal control facility was nothing more than a small wooden shack with dirt floors and three small kennels located behind the county garage. In the lawsuit, plaintiff Toni Penrod sued the county, the judge executive and five fiscal court magistrates whom she said ultimately were responsible for the continuing violation of the Humane Shelter Law. She cited numerous reasons why the shelter was out of compliance, including:

- Lack of room to provide dogs with care.
- Lack of proper veterinary care.
- Dogs being kept in outdoor pens without protection from the elements.
- Lack of separate kennels, leading to dogs killing each other.
- No provision of heat in the winter, causing frost bite and hypothermia.
- Inadequate protection in summer heat, causing dehydration, heat stroke and other injuries.
- Lack of a quarantine area for sick or injured animals, causing rampant disease spreading.
- Lack of uncontaminated water.
- Lack of an impervious floor that could be adequately cleaned and disinfected, causing dogs to lie in the dirt on which they urinated and defecated.
- Failure to provide the public with access to adoption-eligible animals.
- Failure to keep accurate records of the dogs coming into the facility, causing some to be euthanized while families were searching for them.

With such deplorable conditions, quickly following the lawsuit, Robertson County moved

the dogs to a Bracken County shelter while the process began to obtain a grant and build a new shelter.

“The old ‘shack’ had Parvo and any puppy 10 weeks or younger would have been exposed to it because it lives in the ground for up to seven years,” said Robertson County Dog Warden Staci Johnson, who took over the position shortly after the county began building the new facility. “There was no way for them to get away from it.”

The new shelter received its certificate of occupancy in April 2010 and was officially licensed in January 2011. It is a concrete and metal building with six running units and two isolation kennels. It also has a ceiling unit to provide warmth in the winter, Johnson said.

But it is Johnson’s care and hard work that has really turned the Robertson County animal shelter around. She has developed a record-keeping system that tracks every dog that enters and leaves the facility. She keeps a daily log of every call she receives, documenting the address of the location where she picks a dog up, which makes it easier to match up missing pet calls to stray animal calls and/or pickups. Johnson also developed the first adoption contract for the county shelter. In the two years Johnson has held the position, she has logged in more than 300 dogs and seen a huge increase in adoptions and a significant drop in the euthanasia rate.

“When people ask me why I took this position, my response is I want to do something for the county that they’ve never had,” said Johnson, a 13-year resident of Robertson County. “That’s the No. 1 reason I took it. I knew the new facility was being built and I wanted to get it set up to give those dogs a chance. I feel like I’ve done what I set out to do ... making it a shelter the way it should be.”

Johnson also has partnered with local businesses to donate food, bedding and cleaning supplies, and with veterinarians to provide discounted spay and neuter procedures and immunizations. >>

*“ ... I wanted to get it set up to give those dogs a chance. I feel like I’ve done what I set out to do ... making it a shelter the way it should be.”*



Scan this QR code with your smart phone to access the Robertson County Animal Shelter's Facebook page.



*“Before the economic downturn, folks could afford more feed. When times get tough, they have to make a decision about having to take care of other priorities or feed animals.”*

>> “I just simply went and asked for that stuff,” she said. “It just seemed like it was never an option for Robertson County, and I just wanted to see how I could do it, if I could do it.

“It’s been really stressful, but overall I’m really proud of what it is now, compared to how it started out,” Johnson continued. “I think we have a really nice facility and it is run by state codes the way it is supposed to be run.”

### **MORE THAN THEY BARGAINED FOR**

For Investigator Shane Mitchell with the Division of Animal Health, calls on neglect have become more and more common, he said. Approximately 85 percent of his calls for cruelty or neglect are regarding equines. Between the failing economy and people’s misunderstanding of what is necessary to care for horses, many horses are falling into the neglected category.

“The economic situation is part of it,” said Madison County Agriculture and Natural Resources Agent Brandon Sears. “Before the economic downturn, folks could afford more feed. When times get tough, they have to make a decision about having to take care of other priorities or feed animals.”

“The biggest trouble we run into is people not necessarily meaning to neglect, but ... they don’t have the means to take care of them once they acquire them,” Mitchell said.

Mitchell and Sears pointed to the role the economy has played in potential livestock abuse/neglect. In recent years, the price of equines has dropped considerably, with horses being sold at stock yards for as little as \$10, Mitchell said. Unfortunately, the cheap price of purchase is significantly outweighed by the more expensive price of hay and feed to support the horse — a challenge for which some new purchasers aren’t prepared.

Sometimes when equine owners become overwhelmed with their responsibilities, they will just abandon the animal in the wild or on someone else’s property, DAH Investigator James McClendon said. He had one case where an individual tied a horse to a tree on someone else’s property and the next morning it was found dead.

“A lot can’t feed them. Some keep them, but can’t feed them,” he said. “They’ll tell you everything — that they’re feeding them and taking them to the vet, but they’re not. They’ll put hay in there while we’re there, even though we saw it empty when we arrived.”

Cattle neglect is a less-frequent issue, Sears said, because most of what we have in Kentucky are commercial cattlemen. It is in their best interest to make sure their animals are healthy because they are producing beef and that’s how they make their income. If they have malnourished cattle or mistreated animals, they’re not going to be productive, he said.

“Sometimes there is perceived animal cruelty from a nutrition side,” Sears said. “We get calls where people who live in neighborhoods that back up against a farm see a cow and think it is too skinny. But, cows go through phases where they get skinny and bulk up, especially if they have calves on them.”

However, there are still neglect issues that exist with cattle, often revolving around the age and abilities of the individuals who own the farms, Mitchell said. Mitchell and other Division of Animal Health investigators have been trained in body condition scoring to help them identify animals that may need help. They also teach these techniques to local law enforcement officers to help them identify animals that may be malnourished and neglected.

PHOTO BY ELIZABETH THOMAS



◀ DAH investigators check the papers of those arriving at the state fairgrounds to enter their livestock into the fair. Checking for proper paperwork helps ensure no diseased animals enter the fairgrounds during the shows.



PHOTO BY ELIZABETH THOMAS

“We use the body conditioning, and it’s not perfect. But, it is the only proven way we have to relate information,” Mitchell said. “When I call the office and say I have a horse with a body condition score of two, they can visualize and know what I’m talking about. It’s the only way we can really assess and put on paper more or less what the animal’s condition was at the time of assessment.”

Several years ago, Mitchell worked with the Lewis County Sheriff’s Office on a case where a woman who owned a farm had Alzheimer’s disease. She had become rather violent toward family members when they came to try and help her around the farm. In her mind, she thought someone was taking care of the cattle and feeding them. When law enforcement arrived, she had 143 head (of cattle) on the farm and 85 of them were dead.

“This happens a lot with the elderly,” Mitchell said. “I had one in Grant County that had 34 dead. The gentleman lived by himself, he was 65 and on a cane. It was his family farm and he had lived there all his life. He had no family to fall back on and he knew he had a problem, he just didn’t know which way to go about it.”

Mitchell said cases like these are difficult because he still has to charge these individuals with abuse/neglect of their animals.

“Do we prosecute every [case like that], No,” he said. “I’d feel like a Judas priest going out and prosecuting. We just guide them along and solve the problem before it gets any worse.”

The levels and types of animal abuse across Kentucky run the gamut from unintentional inability to care for animals to the reckless disregard for life that occurs in animal fighting rings or belligerent animal torture, or intensely under-regulated animal shelters. Though the laws that govern animal abuse in the commonwealth can potentially be difficult to navigate, law enforcement officers across the state often are faced with situations that involve intense cruelty to animals, and they need to know what actions are necessary for them to take in these cases. Animal abuse and torture have been proven in numerous studies to be prerequisites to crimes against humans such as domestic violence, rape and murder. Getting a good handle on animal abusers can allow law enforcement the opportunity to stop further harm in their communities from these offenders. 🌱

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Abbie Darst can be reached at [abbie.darst@ky.gov](mailto:abbie.darst@ky.gov) or (859) 622-6453.

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▲ Division of Animal Health Investigator Roger Ogg inspects animals at the Kentucky State Fair to ensure they meet the standards for healthy entrance.



“*Methamphetamine is a pox: it burns, it scars, it poisons, it kills. It ruins countless lives and is a tremendous financial burden on our justice and healthcare systems.*”

— William Smock, MD, FACEP, FAAEM  
Professor of Emergency Medicine  
University of Louisville School of Medicine  
Chairman, GLMS Public Safety Committee

# One Step Misery

▲  
▼  
KARI SAMS | CRIMINAL INTELLIGENCE  
ANALYST APPALACHIA HIDTA



The manufacturing of methamphetamine should scare you. But how much do you really know about it? For years we have taken steps to combat the growing meth epidemic, but each year we are setting new records for meth lab incidents. Kentucky ranks fourth nationally, and that's unacceptable. Children are unknowingly being contaminated at school; toxic chemicals are discarded and become a public health nightmare. Taxpayers spend millions of dollars on uncompensated medical care for victims of meth lab explosions. The simplicity of the manufacturing process puts us all at risk.

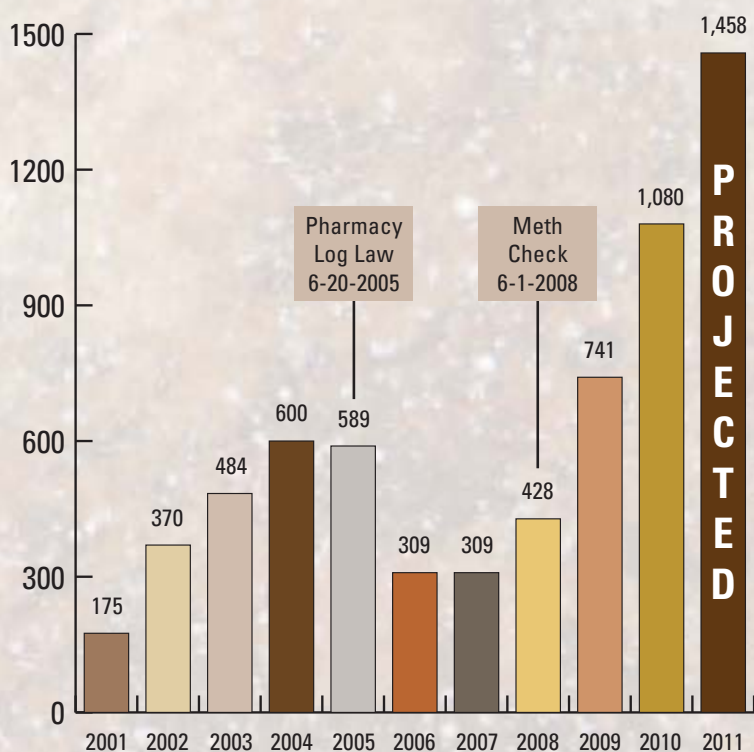
Appalachia High Intensity Drug Trafficking Area, Operation UNITE, the Kentucky State Police and the Kentucky Narcotics Officers' Association, along with many others, have joined forces to help combat the educational shortcomings

across the state with respect to methamphetamine production. This joint effort has taken on a new life, in the form of a project called One Step Misery. One Step Misery is a campaign designed to equip individuals with the resources necessary to educate their community on the dangers of methamphetamine.

Newspapers, as well as radio and television broadcasts, carry stories daily of methamphetamine related issues. ABC produced a mini-series entitled, "So Much Meth," which started airing in May addressing issues such as the chemicals used in production, smurfing and law enforcement efforts to uncover illegal labs. The segment airing on ABC News Special Report alluded to the fact that methamphetamine production is putting a huge strain on law enforcement and asked the question, "Why isn't more being done on either the state or federal level to help with the problem?" >>

## Methamphetamine Lab Response for Kentucky

\* Numbers provided by EPIC, ACS Container Program, Louisville Metro Police Department, 2001 – present / State and Local Response





# National Summit to Tackle Issues Related to Nation's Prescription Drug Abuse Problem

**DALE G. MORTON** | COMMUNICATIONS DIRECTOR, OPERATION UNITE

**C**ommunities across the United States continue to be ravaged by the abuse of prescription drugs.

In an effort to bring all parties together to find data-driven solutions to this problem, Operation UNITE is coordinating the first National Summit on Rx Drug Abuse — the first national summit focusing only on the issue of prescription drug abuse, April 10 to 12, 2012, at the Walt Disney World Swan Resort in Orlando, Fla.

The summit will provide attendees an opportunity to interact with and learn from their colleagues — and experts in other disciplines — who are successfully battling prescription drug abuse in communities across the nation, UNITE Director Karen Kelly said.

Keynote speakers at the Summit are expected to include Congressman Harold “Hal” Rogers (KY-5th), chairman of the House Appropriations Committee; R. Gil Kerlikowske, director of the White House Office of National Drug Control Policy; Surgeon General Dr. Regina Benjamin; Dr. Nora Volkow, director of the National Institute on Drug Abuse (NIDA); Dennis Jay, director of the Coalition Against Insurance Fraud; and Joe Rannazzisi, deputy assistant administrator with the Drug Enforcement Administration.

Conference programming is designed to convey a synergistic approach to include: prevention, education, treatment, law enforcement, health care providers, advocates and human resources among other impacted parties. The program will include breakout sessions impacting law enforcement, treatment, health care, advocacy and prevention. ■

For more information about the Summit please visit [www.NationalRxDrugAbuseSummit.org](http://www.NationalRxDrugAbuseSummit.org).



>> Law enforcement across the commonwealth are seeking effective legislation aimed at restricting the sale of pseudoephedrine — the key ingredient used in the manufacturing of methamphetamine. Kentucky is exceeding lab numbers from previous years (up 35 percent from 2010), and it is becoming even more apparent that it is time for action.

Months of planning, traveling, researching and revising have gone into a program that we believe will change the history of the commonwealth. This campaign has been designed with a train-the-trainer concept in mind.

“With the number of meth lab incidents rapidly rising in the state, we must educate our citizens on the dangers associated with methamphetamine and how they can be part of an active solution to the problem,” said Vic Brown, deputy director of AHIDTA.

Each individual who participates in the One Step Misery campaign will be equipped with a training kit, allowing

them to have all necessary information available to go forward and train other law enforcement officials on the dangers of methamphetamine.

Each One Step Misery Kit will include:

- 1 Packaged Community Presentation
- 150 Brochures
- 15 Posters
- A Media Campaign with Radio/Print PSAs
- Facilitator Guide
- 100 Legislative Message Cards

Become educated about the dangers of meth, learn about its harmful effects and know what to look for. Become an active part of the solution.

Law enforcement across the state have come together to educate communities. If you are interested in scheduling a presentation or distributing materials throughout your community, please contact Operation UNITE by calling 1-866-OP-UNITE or by email at [onestep-misery@centertech.com](mailto:onestep-misery@centertech.com). ■

▼ Methamphetamine is a scourge on society. To an average citizen, this pile of bags and bottles may look like a trash heap. But to drug investigators, it is a sign of danger and criminal meth production.



PHOTO COURTESY OF RICHMOND POLICE





**10 Foot Wall**  
Sponsored by  
Kentucky Concerns  
of Police Survivors

■ Members of the Hopkinsville Police Department showed plenty of determination and teamwork to scale this 10-foot wall during the 2011 Kentucky Officers Fitness Challenge in October in Lexington. The Lexington Division of Police hosted the first-time event. The Hopkinsville team placed third in the 1.1 mile obstacle course. First place went to the DEA's "Pill Team 6" with Frankfort Police Department coming in second.

PHOTO BY JIM ROBERTSON





PHOTO BY ELIZABETH THOMAS

# Franklin County Sheriff's

# 'Rockin' and Rollin'

ELIZABETH THOMAS | PUBLIC INFORMATION OFFICER

**W**hat happens when a warrant list goes from 15 pages to a half page in eight months? The bad guys get locked up and the good guys gain community support.

"We're rockin' and rollin'," said Deputy Matthew Green, Franklin County deputy for 16 years. "And, we have the whole community on our side now.

"Each and every day I go to work, someone stops me to say, 'Y'all are doing a great job,'" Green added.

In January 2011, newly-elected Sheriff Pat Melton found the keys to the office on his new desk. He hired a new chief deputy. He tacked up a core values and a mission statement around the department.

He started a Facebook page. And, Franklin County hasn't been the same place since.

On May 25, FCSO posted their top 15 most wanted on the local cable channel and on Facebook.

Within one week, those 15 were behind bars. In three months, 32 of Franklin County's most wanted were locked up, almost entirely due to the spot FCSO has on the local cable channel and the FCSO Facebook page.

Other agencies that, in the beginning, balked at FCSO launching a Facebook page, are now starting their own.

## **BAD BOYS, WHATCHA GONNA DO?**

Earlier this summer, deputies were tipped off to a most-wanted offender's location, and within 20 minutes, the suspect was in handcuffs. While cuffing him, >>



# Office

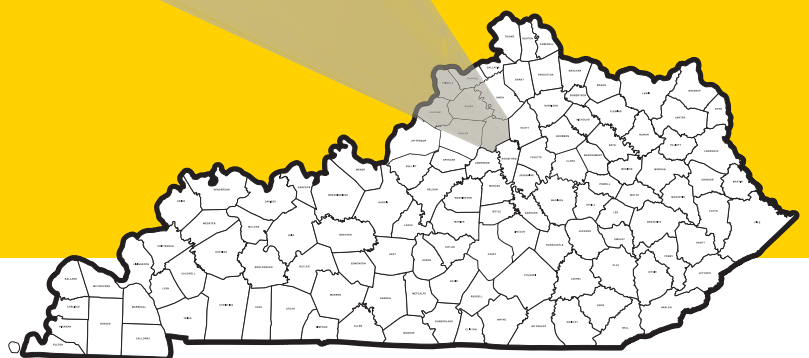






PHOTO BY ELIZABETH THOMAS

▲ Franklin County Sheriff Pat Melton and Deputy Matthew Green approach a Franklin County home to serve a search warrant.

>> another tip came in that indicated another suspect was nearby and within eight minutes, he was in custody. Eventually, the FCSO deputies had four individuals locked up in two hours.

On another occasion, while deputies were serving a warrant, a fellow threw himself on the ground spread eagle and announced, “I give up!” He wasn’t even the guy they were looking for.

And yet another turned himself in, saying, “Just get me off TV!”

“I want to make sure the community knows we’re out there, on the job,” Melton said. “When you’re kickin’ the bushes, something will come out.”

In a smart move by the agency, local restaurants have agreed to leave the local cable channel on one television at all times. Since the most wanted has been aired on the cable channel and added to the Facebook page, 317 tips had come in between May and August, by call or text, to that line, according to Administrative Director Craig Blanton, who mans the line.

“We want the people of Franklin County to work here, eat here and play here, but it should be safe here,” Melton said. “Getting these guys off the street is a big part of that.”

And the sheriff isn’t just sitting by watching. He also works calls and responds when he’s needed.

“One of the challenges we face is in what the sheriff’s office is constitutionally required to do, which is tax collection, while still serving

warrants, papers and law enforcement,” said chief deputy Ron Wyatt.

With 211 square miles, including the state’s capital, and a population of more than 49,000 (80,000 during the work week), FCSO covers that with 18 full-time officers, 10 court-security officers and four part-time officers.

“I’m big on customer service,” Melton said. “We might be doing a routine traffic stop or collecting taxes, but we’re going to do it right.”

He’s big on improvement, too. The agency has new vests, upgraded from 10-year-old, expired ones. FCSO now has a mounted patrol that did not cost taxpayers a dime; the horses belong to one of the school resource officers who has had training with the Royal Canadian Mounted Patrol. The agency also has its first female road deputy.

Melton even made a slight change to the uniform — dressing it up with brass buttons.

“The uniform change is a visual statement of the change in the sheriff’s office and the professionalism,” Blanton said.

“We want to set every deputy up to succeed in every way,” Melton said. “I want my agency to excel, to be the best.”

FCSO has stepped up court security as well. Certified court security officers now search everyone, including attorneys and employees they see every day. While at first this was an annoyance, now court workers and visitors praise FCSO for their change in safety.





"We've elevated court security," Melton said. "They're part of the team."

Narcotics was one of Melton's major platforms during his bid for sheriff. In his time at FCSO before becoming sheriff, Melton worked as a narcotics detective. He made one of the largest drug busts in the history of the county and investigated more than 30 cases himself that led to indictments.

"We'd rather serve you a warrant, search and take everything you've got," Melton said. "So, when you get out of jail, you have nothing and you have to start over. You can't just go back up and start up your drug business where you left off."

Melton recognized that FCSO could not do it alone. They have county-wide interagency cooperation with Kentucky State Police Post 12 and Frankfort Police Department.

Melton is humbled by the community support, but more so by the support of his deputies.

"I've grown up in this community and I took this job so I could help this county, and for the first time in 16 years I feel like I'm doing that," Green said about serving under Melton.

With other endeavors on FCSO's horizon, Green added with a chuckle, "All I can say is 'stay tuned to your local news.'"

▲ (left) The Franklin County Sheriff's Office has had tremendous success capturing the county's 'Most Wanted' using its cable channel 27 and Facebook. (center) Deputy Matthew Green is a Franklin County native and has served the Franklin County Sheriff's Office for 16 years. (right) A new uniform, complete with brass buttons, is a visible symbol of the professional changes Sheriff Melton made during his first months in office.

*We want to set every deputy up to succeed in every way. I want my agency to excel, to be the best.*



PHOTO SUBMITTED

◀ The Franklin County Sheriff's Office recently started a mounted patrol unit using donated horses from one of its school resource officers, who has trained with the Canadian Mounted Police.





# POST AND ARREST

**Kentucky law enforcement agencies use Facebook to identify, locate and apprehend criminals**

**ABBIE DARST** | PROGRAM COORDINATOR

Face it, Facebook is here to stay, despite all the crazy, dumb and dangerous ways people use it to harm themselves and others every day. The young girl who posts too much information to the predator lurking behind the screen. The soccer mom who thinks her secret pictures are only visible to some of her “friends.” The officer who posts to many details about the scoundrel he apprehended that night. Or the teen who attempts suicide because of the barrage of verbal threats and bullying posted by other students.

But wait. There is another side to the phenomenon known as Facebook — and when tapped in a positive, proactive way, it can provide a wealth of information to law enforcement agencies and keep them better connected to their communities.

In August, Trigg County Sheriff Ray Burnam was faced with a dilemma. After a local resident took Burnam’s suggestion to install deer cameras around his property as a cheaper, better alternative to most home-alarm camera systems, the resident walked into the sheriff’s office with an SD card in hand from the camera and \$3,000 worth of missing equipment. Burnam loaded the card into the computer and the crisp, clear video they viewed showed them exactly who their suspect was — the only problem was neither Burnam nor the resident recognized the individual.

“The picture was clear as day; he was tattooed,” Burnam said. “I didn’t know who it was and no one in my office knew.”

So, Burnam turned to Facebook. He posted images from the video on the Trigg County Sheriff’s Office Facebook page asking if anybody could identify the suspect — and immediately calls began pouring in.

“They told us who he was, where he worked, what he drove and where he lived,” Burnam said. “Within an hour, we were at his house. We showed him the pictures in the interview and there was nothing else he could say except, ‘Yeah, that’s me.’”

Using Facebook to his advantage as an information gathering tool is nothing new for Burnam, who announced his run for sheriff on Facebook last year. Prior to taking office in January, Burnam was a flight chief at Scott Air Force Base in Illinois, where he mentored young airmen new to the base.

“Facebook was a way for me to look up on the airmen ... they just pour their lives



▲ Sheriff Ray Burnam started the Trigg County Sheriff's Office Facebook page shortly after taking office in January. Burnam placed the above surveillance video images on the agency's Facebook page and within one hour captured the suspect seen in the footage.



▲ The Bardstown Police Department posts images of the city and county's most wanted individuals on the agency's Facebook page. Chief Rick McCubbin said that about 25 percent of the warrants served in the area are helped by tips from Facebook.

out on there,” Burnam said. “It was a good tool to use there to help young men and women.

“After I was elected, I used Facebook as a way to communicate,” he continued. “We build rapport. I get messages daily of activity going on in my community.”

And it is that rapport building with community members through Facebook

that allows Kentucky agencies to be successful obtaining useful information from community members when they are searching for suspects, looking to serve warrants or trying to identify individuals from surveillance videos.

“We’re a small town and we have limited resources,” Burnam said. “You use what you have available to you, and Facebook is free.” >>



# Facebook on a Statewide Level

With more than 35,000 fans, the Kentucky State Police Facebook page has proven its success as a way of communicating with individuals in communities spanning the commonwealth.

KSP's Facebook page is chock full of press releases, notes with tips for keeping citizens safe, recruiting mechanisms, event information and pictures, polls and user-generated discussions that span the gamut of topics and participants.

Numerous other state law enforcement-related agencies also have active Facebook pages, including the Department of Criminal Justice Training, The Kentucky Department of Fish and Wildlife Resources and Kentucky Department of Corrections. ■



>> Trigg County is not alone in using Facebook in this way. Agencies across the commonwealth have discovered the immense resource their communities members can be through Facebook.

Bardstown Police Department Chief Rick McCubbin began the agency's Facebook page right after his appointment in April. McCubbin and his staff post images of Bardstown and Nelson County's most wanted individuals.

"If you're wanted on a warrant, you're going on the Facebook page," McCubbin said. "Bardstown has about 13,000 people, so we're small enough that when we put pictures up there, there is a good chance someone's going to know them."

Between June 1 and August 31, Bardstown police served 82 arrest warrants, of which McCubbin said about 25 percent were found using tips from Facebook.

"People don't ever want to be the snitch, but if you give them an avenue to snitch, they are going to do it," McCubbin said.

Law enforcement agencies' Facebook fans offer them a wider scope of individuals paying attention to what's going on in the city or county.

"It's everyday around here," said Franklin County Sheriff Pat Melton. "It's crazy,

but that two-way interaction with the community is why we are being successful. Because if you rely on the 20 sets of eyes of the sheriff's office, that isn't a whole lot. But, when you increase those eyes by several thousand, look what we can do together. A police [officer] or deputy sheriff can't be everywhere all the time, but nosey neighbors are a good thing."

Melton and the Franklin County Sheriff's Office should know. The agency created their Facebook page shortly after Melton took office in January. In May, Melton decided to create a Franklin County's Most Wanted design for posting them on Facebook. Between May 25 and August 26 — roughly 90 days — they caught 32 people using tips from Facebook, along with their cable channel 27.

"We were laughed at a lot for [it] at first," Franklin County Chief Deputy Ron Wyatt said. "We got a lot of kidding over [Facebook] until people started getting locked up. Then we've had a lot of other agencies asking us to put people up there."

Franklin County had one individual they didn't have any information on, but once his image was posted on Facebook, within eight minutes he was in custody, Wyatt said.



▲ In January, the Jackson Police Department posted numerous un-served warrants on its Facebook page, within one hour they had arrested their first individual. The Jackson Police Department's page has about 2,200 fans, with a town population of only 2,500.

When we get tips — that's why a lot of people don't have success because they wait," Melton said. If we can, [we] go get them now. As a result of us doing this ... because people are seeing what we're doing and that we are responsive; we've had 317 tips come in on that phone," Melton said in late August.

On the Franklin County Sheriff's Office Facebook page, numbers to the sheriff's office and the text-a-tip line are listed on each most-wanted photo. In addition, community members can send an email to the email address listed on the information page on Facebook. For more information on the Franklin County Sheriff's Office, see page 32.

In Jackson, the Jackson Police Department has set up a link on its Facebook page allowing people to send the police department completely anonymous emails.

"We get a lot of tips that way," Jackson Police Officer Shawn Howard said. "And not just tips from things we've posted, but tips from drug deals and under-age drinking. They'll just send in random tips on different things."

In January, the Jackson Police Department posted several un-served UNITE warrants from a round up. Within 20 minutes the agency received the first call and within the hour they had one of the individuals wanted for those warrants arrested, Howard said. Since then, Jackson Police have posted surveillance images from a purse theft at Wal-Mart, and the suspects were quickly identified, and images from a suspect who stole a truck mirror in the parking lot.

With a city population just around 2,500, the agency's 2,198 fans as of Nov. 7, is an impressive number, insinuating that nearly the entire population of Jackson is a fan of the police department's Facebook page.

But Jackson Police actually took the idea of starting a Facebook page from the Richmond Police Department, Howard said.

"I saw Richmond PD's page and ... started realizing how many people in our community actually use Facebook, and I thought it would be a great tool to use," he said.

Richmond Police have been ahead of the social media bandwagon for sometime, hosting a MySpace page for a long time



▲ The Franklin County Sheriff's Office has been extremely successful using its Facebook page for obtaining tips and leads on the county's most wanted individuals. Sheriff Pat Melton also uses the page to post information to the community and to build rapport with citizens.

before switching over to a Facebook page a little more than an a year ago, Maj. Bob Mott said. Richmond Police, like many other law enforcement agencies, post everything from patrol warrants and surveillance video and crimes of the day to updates of traffic issues in the community, press releases and activities and events in the community.

"A lot of people monitor it, it's just another way to get your local news," Mott said. "It produces that many more witnesses that you wouldn't have known. Not all of it is correct, but we'll get hits on 90 percent of what we put on there. It's just that many more eyes on the street looking for people."

In some cases, it is literally someone on the street in the right place at the right time that helps catch a suspect amazingly quick. Richmond Police posted a man on Facebook and within one minute of posting it, a woman was reading it on her phone and saw him walking down the street. Literally, within five minutes of posting it, he was arrested, Mott said.

"It's a whole lot more helpful than I would have thought," Mott said of Facebook.

Bardstown's McCubbin agrees.

"Facebook, gosh, who doesn't have it," he said. "I went in kicking and now I think, can I survive a day without it?"

"I would think that if you're not taking advantage of social media, you're kind of missing out," Mott said. "You've got that many more witnesses, that many more eyes on the street that can look at somebody that's wanted or recognize a suspect in one of your surveillance videos."

Facebook has proven an extremely helpful tool for numerous agencies across Kentucky, and many communities are safer and more alert and vigilant because of the interaction fans have with local agencies' Facebook pages. It is a cost-effective way for law enforcement agencies to partner with the members of their community to keep criminals from continuing to walk the streets. And as a bonus, as community members positively interact with local law enforcement, a greater trust and mutual respect is formed.

"There is no excuse that even the smallest department can't have a Facebook page," McCubbin said. "And the amount of people that are on it — I think we're up to 400 plus people that 'like' us in our community. That's 400 people that put it on their page that 400 other people read and post and 400 other people read; so, we know it's getting out there."


Abbie Darst can be reached at [abbie.darst@ky.gov](mailto:abbie.darst@ky.gov) or (859) 622-6453.



D  
R  
A

PROOF  
POSITIVE





**What if there was a  
way to save lives, curb  
costs and ensure justice  
with technology already  
within our grasp? Do the  
advantages outweigh  
the complexities?**

**Extending the Arm of the Law ..... page 42**

**Funding the Future ..... page 48**

**Searching the Family..... page 52**

**Burglary and DNA ..... page 54**



# EXTENDING THE ARM OF THE LAW

## How Expanded DNA Databasing Could Help Catch Criminals Quicker

KELLY FOREMAN | PUBLIC INFORMATION OFFICER

**S**ound asleep and warm in her bed, Viola Greene was startled awake at 2 o'clock on a dark, spring morning when a 19-year-old boy kicked in her back door.

Viola was an 83-year-old retired school teacher. The boy, who was nearly 6 feet tall and roughly 160 pounds, overpowered the elderly woman's fragile frame. He began assaulting her. Then he raped her. He made her do unspeakable things in an attempt to erase the evidence of his attack on her. He stole her jewelry, her money, and left her alone in her home, badly beaten and bound around the neck and wrists.

She was Robert Smallwood Jr.'s first victim. She would not be the last.

It was 1993 when Viola was raped. Although Smallwood reportedly was familiar with Viola because he had done some yard work for her, Viola didn't recognize him. Despite the efforts of Lexington Division of Police investigators, the case went cold. Viola's rapist remained free on the streets.

As a young man, Smallwood quickly became familiar with the Fayette County criminal justice system. The year following Viola's rape, he was arrested several times for alcohol intoxication and disorderly conduct. A few years later he was a suspect in a larceny, and a month later his wife filed an emergency protection order against him.

There were five arrests in all between the time Smallwood came of age and the time he allegedly raped his next victim in 1998. There were signs that Smallwood had violent tendencies and a disregard for the law, but still, no one knew he was responsible for the violent attack on Viola, or that his criminal behavior was only going to get more violent, and eventually, deadly.

### CATCH THEM QUICKER

In 2009, the Kentucky legislature passed a law requiring all convicted felons to submit their DNA to the Kentucky State Police forensic laboratory to be processed and included in a database of offenders. Others who have to be included in this database are registered sex offenders and some juvenile felons.


The commonwealth was one of the last states to create similar legislation. So far, the database has shown impressive results. Prior to the law, the number of matches between cases and offender DNA the central lab saw annually ranged from 54 to 76. In the first full year after the legislation was in effect, that number rose to 139. As lab professionals began processing some of the case backlog in 2011, that number had jumped to 218, as of mid-September.

Despite the positive results, some DNA and law enforcement experts say it's not enough. The technology for DNA databasing far exceeds the ways in which it is being used. The nature of offenders and the process of our criminal justice system demand more to stop criminals early in their careers and prevent crime.

The suggested solution? Expand the database to include DNA from all offenders who are arrested for a crime.

"What it does is it creates a truly investigative tool, if, and that's a big if, law enforcement has a fast enough turn around time in terms of DNA analysis, and if they have the right people in the database," said Christopher Asplen, an internationally-known expert in forensic technology. "The reason I say that is, what ultimately a DNA database should do is change the way police do business. An effective DNA database will provide police with an opportunity to use DNA to lead the investigation and ultimately to solve the crime that way."

Others, like Jayann Sepich, say collecting DNA from arrestees "just makes sense." Sepich fought for arrestee legislation in New Mexico after her daughter, Katie, was raped, murdered, burned and left at a dumpsite with no suspects in her death. Now, New Mexico is one of 26 states which collects DNA from arrestees. >>



**Davey McCann, forensic science specialist at the Kentucky State Police Central Forensic Laboratory, files DNA evidence. If Kentucky's DNA database is expanded, storage space will have to be considered for the influx of samples.**



>> “By passing arrestee DNA legislation, law enforcement officials can catch criminals sooner, prevent crimes, save more lives and use DNA to its full potential,” Sepich wrote on her website, [dnasaves.org](http://dnasaves.org). “Collected at the same time as fingerprints, DNA testing only requires a simple cheek swab upon arrest. That’s why Congress and over half the states have already passed laws for DNA arrestee testing.”

#### ‘A PERFECT EXAMPLE’

Lexington Division of Police Lt. James Curless said Robert Smallwood is a perfect example of how an arrestee database could help in Kentucky.

“If his DNA had been collected earlier, he would have certainly been identified much, much sooner,” Curless said. “That’s

a 15-year period we’re going through now. And I know it’s maybe a cheap shot for me to throw in Viola Greene in 1993 since we were really in the first few years of DNA, but somewhere in that 15 year period, if we would have collected it sooner then he would have been identified.”

In 1998, when another woman came forward and alleged Smallwood raped her, he was arrested and charged with first-degree rape, first-degree sodomy and first-degree unlawful imprisonment. But, a jury found Smallwood not guilty of the charges in June of 1999.

Six months after the acquittal, 48-year-old Doris Roberts was found dead on her couch by her landlord. Doris had been physically assaulted, raped and strangled. Investigators retrieved a napkin that had

been stuffed in her mouth that had an unknown DNA profile on it.

Two and a half years later, 28-year-old Sonora Allen was found dead in a parking lot. She had been raped, strangled and had high levels of cocaine in her system, Curless said. In April 2006, police found 33-year-old Erica Butler bound, raped and murdered in her bed. This time, though, another male in the house had seen Smallwood and was able to tell police the suspect was a black male.

In the time between Smallwood’s rape arrest in 1998 and Erica’s murder in 2006, Smallwood had been arrested six other times on various theft and drug charges, had spent time in both the local jail and state prison and had two more EPO’s filed against him by his wife. Erica was killed

## Criminology of a Killer



**May 1993**  
Rape of  
Viola Greene

**1997**  
Victim and  
suspect in  
separate theft  
cases

**Sept. 1998**  
Theft by  
deception,  
cold checks,  
five days in jail



**Oct. 1998**  
Evicted

**Sept. 1999**  
Daughter born



**Oct. 2001**  
Domestic  
violence with  
wife — dismissed  
after wife’s failure  
to appear

**July 2002**  
Daughter born

**Nov. 1992**  
First arrest,  
alcohol  
intoxication  
(arrested for  
same three  
days later)

**1994**  
Assaulted,  
three arrests for  
disorderly conduct  
and alcohol  
intoxication



**Jan. 1998**  
Evicted;  
Domestic  
violence  
with wife —  
dismissed at  
wife’s request

**Nov. 1998**  
Arrested for  
first-degree  
rape, first-  
degree sodomy,  
first-degree  
unlawful  
imprisonment  
(second alleged  
victim) —  
acquitted  
June 22, 1999

**Dec. 1999**  
Doris Roberts is raped  
and murdered (six  
months after acquittal)



**August 2002**  
Sonora Allen is  
raped and killed



shortly after Smallwood's release from prison.

The discovery of Erica's body in 2006 left investigators worried. They knew from the similarities it was possible her case could be connected to Doris and Sonora's cases, Curless said, and they were right. In September 2006, the KSP lab linked the DNA collected in the three murders to the same, unknown offender profile.

"The first one came in that we had a foreign DNA profile," Curless said of DNA evidence from Doris Roberts' case. "The second one (Sonora's) came in, which alarmed us, because it linked two cases. But, we kind of had to examine it, go through it and weigh it and [conduct] interviews, try to locate and determine who the suspect is. By the time the third

and fourth case came in, we were very concerned at that point. Then we knew we had a serial killer."

Lexington investigators previously had created a cold case team to study old cases for new leads. Curless said the team looked at several suspects for the city's first serial killer before they identified Smallwood. With his DNA already in the department's evidence room from an earlier case, it was sent to the central lab for comparison with the unknown DNA profile.

It was a match. But, not just to the three murders. Investigators were surprised to link Smallwood all the way back to Viola Greene's 1993 rape and assault, too.

"We would have never linked Viola Greene to these other homicide cases [without DNA]," Curless said. "Because

number one, the time that had elapsed, number two, the difference in ages and those type of things. There would be no logical reason to really bring those together."

Tragically, Viola never got to know justice had been served in her rape all those years earlier. She passed away of natural causes before Smallwood ever was identified, Curless said.

"Even though these victims have deceased, the arm of the law still reaches out and grabs that criminal, even after death," he said.

## PREVENTING CRIME

Several jurisdictions have conducted studies based on cases like Smallwood's, to determine the probability of crime prevention and cost savings of expanding DNA >>



**Robert Smallwood**

37 years old, 6 feet tall, 220 pounds

### Charges:

Murder (3 counts), Rape 1<sup>st</sup> (2 counts), Sodomy 1<sup>st</sup>, Robbery 1<sup>st</sup> and Burglary 1<sup>st</sup>.

Presently incarcerated by Kentucky Department of Corrections.



**Sept. 27, 2006**  
Smallwood is interviewed, warrants obtained for three counts of murder, two counts of first-degree rape, one count first-degree sodomy and first-degree burglary

**April 2006**  
Erica Butler is raped and killed

**Oct. 2005**  
Arrested for alcohol intoxication and disorderly conduct

**March 2005**  
Possession of drug paraphernalia, seven days in jail

**November 2003**  
Operating on suspended license and possession of marijuana, 7 days in jail

**November 2002**  
Theft by failure to make required disposition, 3 days in jail

**Sept. 2006**  
KSP lab makes DNA link between cases

**Nov. 2005**  
Sentenced for cocaine possession one year prison, suspended, three years supervised probation, undergo treatment, state probation, sentenced for paraphernalia, 12 months suspended, probation violation, one year in prison

**May 2005**  
Evicted; Arrested for use or possession of drug paraphernalia, possession of cocaine and marijuana: later indicted

**Dec. 2004**  
Domestic violence, no court appearance, dismissed

**July 2003**  
Possession of marijuana charges, four days in jail

**September 2002**  
Domestic violence with wife — no appearances, dismissed





>> databases to include arrestees. Among the most well known of these studies was one conducted in Chicago and presented to their state legislature in 2005.

In the study, the city of Chicago researched the criminal histories of eight offenders within their prison system. The study revealed that had DNA been collected when they first were arrested, 60 violent crimes — including 53 murders and rapes — could have been prevented.

“The eight offenders in Chicago accumulated a total of 21 felony arrests before finally being identified in the violent crimes,” the study reported. “Only seven of the prior felony arrests were for violent crimes — the remaining two-thirds of arrests were for non-violent felonies.”

Illinois now is one of the 26 states collecting arrestee DNA.

Maryland conducted a similar study to determine whether they should pass arrestee legislation. In their study, three individuals were identified and their criminal histories researched. In total, the three men had been charged with 49 crimes. The study determined that if DNA were taken upon their first arrests, 20 of those crimes could have been prevented. They, too, now are collecting arrestee DNA.

When Indiana began looking at arrestee DNA, they studied it not only from a crime prevention angle, but from the perspective of cost savings to its state government.

“More important is the cost of NOT passing this legislation, which would be measured not only in the missed opportunity to save taxpayers money, but also the socioeconomic costs of avoidable human tragedy and victimization,” said Dr. Jay Siegel and Susan D. Narveson in their report, *Why Arrestee DNA Legislation Can Save Indiana Taxpayers Over \$50 Million Per Year*. (See more details of this report and other cost considerations on page 48.)

### GUARDING THE FOURTH AMENDMENT

But, not everyone thinks the issue is so clear cut. There are concerns about whether including arrestees oversteps the mandate of DNA databases to store DNA profiles of convicted offenders. While some argue collecting DNA is no different than the age-old procedure of taking fingerprints, others say the data included in our DNA is much more extensive and precious. Additionally, there are questions about

oversight and the provisions in place to safeguard the databases.

Bill Sharp, attorney for the American Civil Liberties Union of Kentucky, said the ACLU believes those who have been arrested for — but not convicted of — a crime have a “greater right to privacy” than those who have been found guilty of a criminal act.

“The ACLU of Kentucky does not oppose law enforcement’s use of DNA technology to investigate criminal activity,” Sharp said. “The proper collection and analysis of evidence is within the state’s police power and necessary for public safety. We do oppose, however, the state’s unfettered authority to collect DNA samples from everyone who is arrested for (but not convicted of) any criminal offense in contravention of the Fourth Amendment.”

“To the extent specific evidence exists to support a finding of probable cause for the collection of DNA evidence from an individual, the Fourth Amendment’s warrant requirement imposes a modest and reasonable limitation on government’s ability to obtain that evidence,” Sharp continued.

Courts in the 26 states now allowing arrestee DNA collection have not helped to simplify the issue. In his Yale Law School report, “The evolution of DNA Databases: Expansion, Familial Search and the Need for Reform,” Dr. Michael Seringhaus wrote that a “Minnesota Court of Appeals struck down a state law that authorized DNA collection from arrestees on Fourth Amendment grounds.”

Yet, the following year, the Virginia Court of Appeals upheld DNA collection “on the theory that it is similar to fingerprinting,” Seringhaus wrote. In 2009, the U.S. District Court for the Eastern District of California upheld the collection of DNA from individuals who were arrested with probable cause for felony charges.

“In its decision, the court emphasized the importance of a finding of judicial probable cause,” Seringhaus wrote, “and

► The series of events that must take place to process DNA samples is extensive and painstaking to ensure the integrity of the evidence. The KSP lab uses several highly-technical machines to complete the task.

PHOTOS BY JIM ROBERTSON



inventoried the various ways in which a defendant's liberty is routinely restricted after such a finding and before trial."

One way a defendant's liberty is restricted is through fingerprinting.

"If we do that for fingerprints, why don't we do it for DNA?" Asplen asked. "Is DNA different? No, it's not. What gets included in a fingerprint database? Is it your fingerprint? Well, no, it's not. It is a digitalized representation of your fingerprint. What is in a DNA database? Your DNA? No, it is a digitalized representation of your DNA at 13 loci. So, it really is a digitalized representation that couldn't tell us any more about you than your fingerprint can. Your fingerprint can't tell you if you're predisposed to certain diseases. Neither can DNA. Your fingerprint can't tell us if you have a disease, nor can the DNA test that we do. It doesn't do any of those things. It is only good for the purpose of identification. That's it.

"So, there is no real, legitimate distinction between DNA and fingerprints," Asplen continued. "Now, I'll give one exception to that. The biological sample that is taken that the DNA test is run on, that biological sample, if it were to be tested for other things, it could be. That could in fact be tested for all these other things. There's a couple problems with that. Number one, we don't have the money or the time to do the DNA tests that we're supposed to do. To do a simple 13 STR loci test and get it turned around in six months is a huge challenge. "To suggest that somehow we're going to be interested in doing all these

other bad tests comes down to a fundamental question," he said. "Do you trust law enforcement or not?"

Sharp disagreed.

"The question is not about the public's trust of law enforcement, but rather the constitutional limitations upon the government's ability to circumvent the Fourth Amendment's warrant requirement in the collection of DNA evidence from individuals who have not been convicted of any offense," he said. "... government officials can always point to the interest of 'public safety' to justify why they need greater authority to conduct searches without complying with the Fourth Amendment.

"As a country, however, we enshrined the Fourth Amendment's warrant requirement into our constitution precisely because our forefathers recognized the tendency for the state to seek to expand its authority at the expense of individual liberty," Sharp continued.

Whether the database expands or not, KSP lab DNA Database Supervisor Stacy Warnecke said the technology already is solving cases by providing investigative leads.

"As we work more cases and process more offenders, the number of hits keeps going up," she said. "All we can do is add more offender samples (i.e. add arrestees) and keep working cases. It takes a well-funded and sufficiently-staffed laboratory to do both."

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Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.

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## Christopher Asplen

Christopher Asplen, Esq., is an internationally known expert in forensic technology, particularly in DNA. He has consulted directly with the Ministers of Justice in several countries and has been asked to assess the legislative strategies of DNA databasing in European countries by the European Network of Forensic Science Institutes. Prior to his work with the foreign governments on technology policy, Asplen was an Assistant U.S. Attorney in Washington, D.C. While serving in that role, he was appointed executive director of the U.S. Attorney General's National Commission on the Future of DNA Evidence. Asplen worked closely with Attorneys General Janet Reno and John Ashcroft to develop DNA policy for the U.S. Department of Justice and also testified before Congress to successfully advocate for the appropriation of more than \$160 million for forensic DNA testing. ■



## CODIS: The DNA Database

The Combined DNA Index System was established in 1990 by the Federal Bureau of Investigation's laboratory. The system began as a pilot software project and served 14 state and local forensic laboratories, according to the FBI website. Four years later, the DNA Identification Act formalized use of the system for law enforcement and the National DNA Index System was built.

When DNA evidence is collected from a crime scene, CODIS searches its database for a match. When matches are made, it provides investigative leads to officers working the case. It also searches for other matches from cases in its database in which the offender's identity is unknown.

The DNA profile stored in the database consists of one or two alleles at the 13 CODIS core loci. No names or other personal identifiers belonging to the DNA subject are stored in the database.

For details, visit <http://www.fbi.gov/about-us/lab/codis> ■

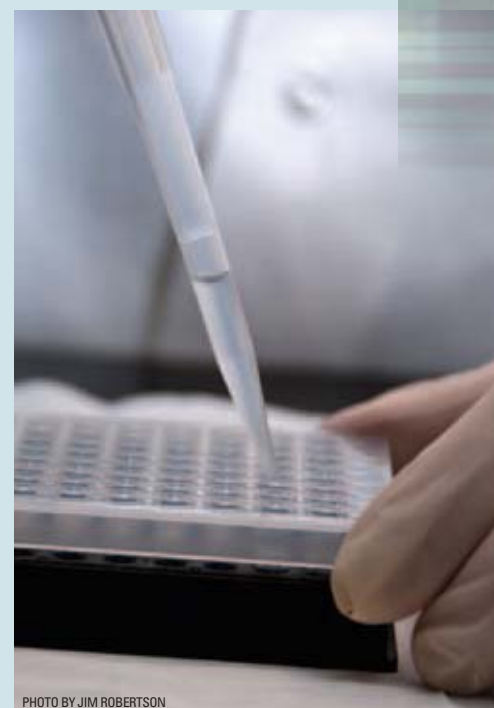


PHOTO BY JIM ROBERTSON



# FUNDING THE FUTURE

## How Kentucky Can Fund the Expansion of DNA Databasing

KELLY FOREMAN | PUBLIC INFORMATION OFFICER

**T**he expansion of any government program inevitably comes with a hefty price tag. Expanding Kentucky's DNA database is no exception. But, the weight of such an evolution does not have to fall solely on the shoulders of the general fund.

In today's economy, expecting state governments to foot the bill alone often can be prohibitive for any new measure. Researchers and experts have invested considerable time into creative ideas to fund the expansion of databases to include either arrestees or familial searching in the states and countries already using this technology.

First, though, it is important to get a feel for the potential cost to the commonwealth if arrestee databasing were to be pursued.

### THE COST

Last year, Kentucky State Police Central Forensic Laboratory DNA Database Supervisor Stacy Warnecke prepared estimates for expanding the current database to include arrestees. Below are some of the figures provided by Warnecke and the KSP Crime in Kentucky report that help to create a picture of what is involved with expanding the DNA database's included profiles:

- Up to 20,000 new convicted offender DNA samples now are being processed by the KSP lab annually.

- Because of a backlog created after the law changed to include all convicted felons, the central lab processes a total of roughly 30,000 samples each year.
- KSP reported a total of 351,976 arrests statewide in 2010. The data does not indicate how many of those arrests resulted in convictions which already lead to DNA collection.
- Under the KSP report's serious crime category — which includes a variety of crimes ranging from murder to arson — 35,269 arrests were reported statewide in 2010.

Based on the number of arrests reported in 2010, figures were compiled to estimate how much it would cost the state to process DNA samples for 360,000 samples. However, it should be noted that this is a conservative estimate. Because of the way the crimes are reported, the number of arrests more fairly represents the number of crimes offenders were charged with. Since criminals commonly are charged with more than one crime in a single arrest, or are arrested multiple times during the year, the number of actual arrestees inevitably would be lower.

Additionally, because the state already is collecting DNA from up to 20,000 convicted felons, there is some duplication

► Davey McCann, forensic science specialist at the Kentucky State Police Central Forensic Laboratory, and the other three lab specialists process up to 20,000 DNA samples annually for law enforcement across the state.



PHOTO BY JIM ROBERTSON

from those convicted that are included in the arrest statistics.

To process 360,000 additional samples per year would cost:

- \$1.4 million for testing kits
- \$7.2 million for reagents and consumables
- \$900,000 for equipment, maintenance and repairs
- \$66,000 for three new lab technicians for sample handling/receiving, data logging and expungement processing
- \$192,000 for three new forensic biologists
- \$32,000 for an additional lease or modification of current space

**Total cost: \$9.7 million**

Some states that are now collecting DNA from arrestees are doing so only from those arrested for felonies. Reaching an estimate of how many felony arrests Kentucky has each year is difficult to enumerate because the KSP Crime in Kentucky report does not separate arrests into felonies and misdemeanors, but instead into Part 1 (serious crimes) and Part 2 (lesser crimes). However, there are felony crimes included in the Part 2 designation.

If Kentucky chose to only solicit DNA samples from felonious arrestees, the following is a rough projection of what those

costs might be based on an estimated 60,000 felony arrests:

To process 60,000 additional samples per year would cost:

- \$240,000 for testing kits
- \$1.2 million for reagents and consumables
- \$200,000 for equipment, maintenance and repairs
- \$22,000 for an additional lab technician
- \$32,000 for one new forensic biologist to process samples

**Total cost: \$1.6 million**

Experts warn, though, that collecting DNA only from felon arrestees is a mistake. In 2009, Dr. Jay Siegel and Susan D. Narveson crafted a report called, "Why Arrestee DNA Legislation can Save Indiana

Taxpayers Over \$50 Million Per Year." In the report, Siegel and Narveson addressed the nature of a criminal career.

"Rarer still is the offender whose first crime is a violent felony like rape or murder," the report states. "It has been well established that the typical criminal career progresses in an escalating fashion. Criminals commonly 'cut their teeth' with less serious crimes such as petty theft or drug violations. After establishing a successful track record of getting away with these crimes without consequence, many will inevitably progress to more serious property crimes, violent crimes, sexual assaults and, eventually, even murder."

The purpose of expanding the DNA database to include arrestees or even to allow for familial searching is two fold. One, it allows law enforcement to single >>



>> in on a perpetrator, saving countless man hours and providing for swift and solid justice. Secondly, it seeks to prevent repeat offenders from continuing that series of escalating crime, Siegel and Narveson said.

If officers are able to collect DNA from a criminal early in his or her career while they are still cutting their teeth on burglaries and get their DNA in the database sooner, when they do commit a more serious crime, the next time officers will have that DNA on file. And, ideally, that offender would spend time in prison, preventing further victimization.

### FUNDING THE FIGHT

While the initial price of \$9.7 million or even \$1.6 million for felony arrestees may seem overwhelming, international DNA expert Chris Asplen suggested several ways in which Kentucky could offset the cost. The first of those ideas is based on a solution California implemented after more than 60 percent of voters cast ballots in favor of collecting arrestee DNA — to make the offender foot the bill.

In Kentucky's case, if that \$9.7 million were divided among the 360,000 offenders, each arrestee would pay less than \$27 in additional court costs.

"The way that has worked in California is really interesting," Asplen said. "They are paying for it by having the bad guys pay for it, which is the right thing to do. But, what they did was, they allocated 10 or 15 percent of the fee that was charged to the local jurisdictions as kind of a collection fee to cover the cost of the manpower hours to do the collecting. It doesn't cost 10 percent of the fee to do that. What has

just happened is California realized that a lot of these local jurisdictions have a fair amount of money sitting around in this pot and they can't do anything with it.

"So, California passed a new law that allows the individual jurisdictions to use that money specifically to hire another person in the California Department of Justice lab, specifically to do their cases," he continued. "So, they kind of fund their own individual folks. The way that will probably work out is a number of jurisdictions will probably combine their resources to hire someone at the lab, so that person will then be responsible for maybe three or four counties. So, that is a very creative way they have begun to address the rapid turnaround issue, or lack thereof."

Another innovative solution Asplen suggested was to follow in the footsteps of Bensalem, Penn., where they are using drug forfeiture money to support DNA databasing.

"One thing I absolutely understand is that drug forfeiture moneys are already spoken for," he said. "It's not like anybody has extra money sitting around. And your guys in narcotics, they're going to kill anybody who tries to take their money. I get that. However, if you can convince your guys in narcotics that there really is an application for them in the DNA world, which there is, then you can begin to turn some of that narcotics money over to the DNA world and fund some things through forfeiture funds.

Bensalem, a township about the size of Bowling Green, Ky., has created their own, locally-based DNA database and contracted with private DNA labs to turn



The cost for new equipment needed if the DNA database were to be expanded to include all arrestees could reach toward \$1 million. However, experts say there are a number of ways to offset those costs.

around evidence in two to three weeks, Asplen said.

"In doing so, they are actually driving their investigations with DNA, unlike many other places," he said. "... Let's say you have a typical car stop situation, and you have four guys in the car and police find a baggie in the car with 40 vials of crack in it. And everybody is denying possession of it. We call that a constructive possession case. They are very, very weak cases most of the time, particularly when you have four guys who are all going to point to the other three. It's the kind of case that any prosecutor, if he takes it, is going to negotiate it because it's a loser.

"What they're doing in Bensalem is they're taking that baggie and they're swabbing it, and they're getting DNA off the fingerprints on the baggie and they're showing up at the preliminary hearing with a DNA result," Asplen continued. "And now, what was a very bad case which was probably negotiated to nothing, is a guilty plea with no negotiation because you have DNA. But, the value on top of that is because it's a narcotics case, what police get to do is they get to take the car, they get to take any money that's found in the vehicle, pursuant to drug forfeiture laws. So, they're essentially putting money back in the DNA kitty, by focusing on the narcotics cases also."

*It has been well established that the typical criminal career progresses in an escalating fashion. Criminals commonly 'cut their teeth' with less serious crimes such as petty theft or drug violations.*

Finally, Asplen said there are grant funds available for those states looking to expand the use of DNA technology.

"For the last eight to 10 years there has been money out of the federal government from something called the Debbie Smith Act, and that's about \$150 million a year for various and sundry applications for DNA," he said.

Beyond these suggestions, Siegel and Narveson argue that implementing arrestees into a DNA database ultimately saves states money.

"Two types of cost savings arise from the expanded use of forensic DNA, those from reducing the average cost to process a crime and those from reducing the number of crimes that must be processed," the report states.

Siegel and Narveson estimate the average cost of a crime in Indiana, when factoring in all the pieces of the criminal justice system, is about \$1,800. The report calculates a variety of figures, including the potential annual DNA convictions with expanded arrestee databasing as well as an average number of preventable crimes based on National Institute of Justice and United Kingdom reports.

"Savings, even at the low end of the prediction range, are significant," the report said. "At experience levels comparable to the U.K., the analysis yields a potential direct savings of well over \$50 million per year."

It's possible not all of these solutions will work for Kentucky or that the savings wouldn't be as significant as those shown as possible for Indiana, but the important thing is to explore the options with an open mind, Asplen said.

"I know I talk a lot of pie in the sky for many jurisdictions, but I have a very strong belief that you have to have a vision of where you want to go," Asplen said. "You don't not talk about it just because people are having a hard time seeing it. That's why you have to do it. I get a lot of people telling me that I don't live in the real world and I don't really know how it is. I was a district attorney for six years and an assistant United States attorney for four years. So, I know exactly how it works." 🌩

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Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.

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# Important Federal DNA Legislation

— from DNA.gov

## DNA Identification Act

Modifies the Omnibus Crime Control and Safe Streets Act of 1968 by inserting provisions regulating funding of DNA analysis laboratories and authorizing the collection of an index of DNA records and samples, all of which are designed to enhance quality assurance.

**Full text:** <http://thomas.loc.gov/cgi-bin/bdquery/z?d103:HR03355;|TOM:/bss/d103query.html>

## Crime Information Technology Act

Provides for the improvement of interstate criminal justice identification, information, communications and forensics. CITA allowed for grants for programs relating to the identification and analysis of DNA.

**Full text:** <http://thomas.loc.gov/cgi-bin/query/z?c105:S.2022.ENR>

## DNA Backlog Elimination Act

Makes grants to states for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other

purposes including "to carry out, for inclusion in such Combined DNA Index System, DNA analyses of samples from crime scenes."

**Full text:** <http://thomas.loc.gov/cgi-bin/bdquery/z?d106:HR04640;|TOM:/bss/d106query.html>  
United States Code: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse\\_usc&docid=Cite:+42USC14135a](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+42USC14135a)

## Justice for All Act

Establishes enforceable rights for victims of crimes; enhances DNA collection and analysis efforts; provides for post-conviction DNA testing and authorizes grants to improve the quality of representation in state capital cases.

**Full text:** <http://thomas.loc.gov/cgi-bin/query/z?c108:H.5107:#>  
House report: <http://thomas.loc.gov/cgi-bin/cpquery/R?cp108:FLD010:@1%28hr711%29>

## DNA Fingerprint Act

Establishes an opt-out system for expunging DNA profiles from the national index and to authorize collection of DNA samples from persons arrested or detained under federal authority.

**Full text:** [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_public\\_laws&docid=f:publ162.109](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ162.109) ■

## Be Prepared: What to expect from victims

**W**hen the Kentucky State Police forensic lab returns a hit on a cold case that suddenly reopens a long-dormant investigation, don't take for granted that the case's victims will be as happy to hear the investigation has heated back up.

Some victims will be thrilled to hear that the offender is within grasp. However, those who either suffered from the crime or are perhaps the survivors left behind after a homicide all deal with the effects of these crimes in very different ways. The National Center for Victims of Crime identified just a few ways victims might react, such as:

- Re-experience many of the same emotions that occurred at the time of the crime.
- Be angry or feel as if they are being unjustly burdened.
- Feel numb, overwhelmed, or as if they are in shock.
- Suffer anxiety, fear, grief and powerlessness.
- Feel as though their world is coming apart again.

Victims may have these feelings throughout the course of the reopened case. The NCVC recommends meeting the victims in person to break the news and having patience as they cope with the situation. For details on how you can best help victims of crime in these cases, visit [www.ncvc.org](http://www.ncvc.org) or call (800) 211-7996. ■



# SEARCHING THE FAMILY

## Common Sense or Invasion of Privacy?

KELLY FOREMAN | PUBLIC INFORMATION OFFICER

**A** new and uncertain trend is evolving surrounding the concept of familial DNA searching after several significant cases have been solved through offenders' family members.

The Grim Sleeper — a Los Angeles man accused of killing and assaulting 10 women over the span of more than two decades — was caught after a familial search of California prisons revealed an inmate whose DNA closely matched that of the unknown suspect found at crime scenes. The inmate was the killer's son.

The Bind, Torture, Kill murderer in Kansas also took the lives of 10 people over a span of 30 years before his daughter's DNA linked the 59-year-old compliance officer directly to the crimes.

In the United Kingdom, a trail-blazing leader in using DNA for investigative purposes, the widely-published Shoe Rapist case culminated in the arrest of a man 20 years after his crimes when his sister's DNA linked him to the rapes and attempted rape of six women.

These cases and several others have made familial searching a hotly-debated issue in scientific circles, politics and the media alike. A familial search is not the same as a close-match search, which often results from a traditional DNA database search in which a hit occurs that is not a


perfect match, but is close enough that the offender is likely a close family member of the person in the database.

Familial searching is intentional and targeted, conducted only after a traditional search has come up empty.

"Unlike a routine database search which may spontaneously yield partial match profiles, familial searching is a deliberate search of a DNA database conducted for the intended purpose of potentially identifying close biological relatives to the unknown forensic profile obtained from crime scene evidence," according to the FBI's website. "Familial searching is based on the concept that first-order relatives, such as siblings or parent/child relationships, will have more genetic data in common than unrelated individuals."

Only a handful of states are performing familial searching to date — those being California, Colorado, Texas and Virginia. The U.K. is most famous for its use of familial searching, and has developed extensive protocols for their process.

"One of the key components responsible for the effectiveness of the U.K.'s system is that the search is not based upon genetics alone," the FBI website states. "Age, and more importantly, geographic location, are combined with the genetic data to produce a ranked list of potential relatives of the unknown forensic profile."



Familial searching can be a great investigative lead, but some opponents have expressed concerns about the effects it has on the family members involved.

The advantages of familial searching for the law enforcement community are extensive. The simplest of these lies in providing a larger pool of candidates from which to match crime scene samples to offenders, said Davey McCann, forensic science specialist at the Kentucky State Police Central Forensic Laboratory.

Other advantages are that officers may have to spend less time interviewing suspects and witnesses if a match is found early, and some offenders may be deterred from committing crimes knowing their DNA could easily be matched if left at a crime scene.

But, like many issues surrounding expanded use of DNA, familial searching is not without its critics.

Some people, who have no problem expanding the DNA database to include people who have committed or are accused of committing crimes, second-guess requiring family members to be subjected to DNA testing.

"There are privacy concerns about implicating a family member, who may have no criminal record, simply because they have a relative who has been convicted," McCann said.

"It can also be costly, as you don't get direct matches and other testing is necessary to distinguish if the matches are of value or not," said Stacy Warnecke, KSP lab DNA

database supervisor. "Here is an example from a state lab doing familial searching. They had 68 possible familial matches to a sample, so additional testing was conducted on all of those samples. In the end, they were all ruled out. So, all that work and expense was done for no real matches."

Additionally, Warnecke noted, the CODIS system does not support familial searching, so software would have to be purchased to conduct this type of search, adding another expense. Others argue that the United States could never reach the kind of success with familial searching that the U.K. has because of our size and population.

International DNA expert Chris Asplen said despite the concerns, there is not a good reason not to do familial searching.

"I think there is a huge value because it can be a legitimate investigative lead," he said. "Here's the example I always try to use. A common colloquialism for the last name of Smith is Smitty. Imagine you have three guys who go in to rob a bank, and at some point, one of the bad guys yells, 'Hey Smitty, we gotta get the hell out of here.' That is an ear witness, that becomes a piece of evidence in the case. Would anyone ever suggest to police that they couldn't use that word, Smitty, and associate it with the last name Smith because it's related to their family? Is there anything more familial than

## UPDATE:

The Kentucky Law Enforcement magazine staff published a feature package in the Winter 2005 edition about cold cases. In that article, the author identified a Lexington murder case that was being re-investigated through a cold-case grant. At that time, Doris Roberts' killer was unknown.

Through DNA evidence and the hard work of Lexington investigators, it was discovered that 37-year-old Robert Smallwood not only killed Doris Roberts, but also raped and/or killed three other women in his lengthy criminal career. Smallwood is now behind bars serving three life sentences without the possibility of parole after pleading guilty to his crimes. See page 42 for more on this story. ■

your last name? No. Other than DNA, no. Except that DNA is more reliable.

"... So why in the world if we were to use the most sophisticated, accepted, validated biological science available to law enforcement, why would we say that it would be inappropriate to take a profile from a crime scene that we believe belongs to a rapist or some other perpetrator and not be able to use that familial association when we get a hit to what we believe is a family member in a database?" Asplen continued. "Again that family member is in the database because they did something wrong. Whose rights are we violating here?"

Asplen said some critics claim doing familial searching means everybody is a suspect. But, he said it is no different than using fingerprints or a license plate number to identify someone.

"If you go back to the robbery scenario, and that eye witness gets the last three digits of the vehicle's license plate and gives it to police, the police run all the cars that have those last three digits and come up with maybe a couple hundred," Asplen said. "Does that really mean that everybody in the state of Kentucky who owns a car is a suspect? No, that's ridiculous.

"But we have these ridiculous thoughts because it is DNA and we feel differently about DNA," he continued. "When we actually think about it and understand what we're really doing, we are not violating anybody's rights." ■

Kelly Foreman can be reached at [Kelly.foreman@ky.gov](mailto:Kelly.foreman@ky.gov) or (859) 622-8552.



# BURGLARY AND DNA

## A Vision for Ending the Recidivism

KELLY FOREMAN | PUBLIC INFORMATION OFFICER

**K**entuckians lost more than \$150 million last year when thieves ravaged their homes and businesses, plundering their belongings.

More than 29,000 burglary cases were reported in the commonwealth in 2010. According to the Kentucky State Police Crime in Kentucky report, citizens reported 74,185 other thefts ranging from shoplifting and purse snatching to livestock and farm machinery thefts.

Burglars struck last year every 18 minutes, the report shows. Only about 15 percent of these crimes were solved.

DNA in burglary cases typically is not a leading investigative tool. KSP Central Forensic Laboratory Supervisor Whitney Collins said burglaries and other theft cases comprise about 30 percent of the lab's case load. Because of the severity of violent crimes, property crime DNA that is submitted to the lab takes a back seat to any murder, assault, or other violent crimes, according to statute. Turnaround time for DNA results in property crime cases is about nine months to one year, Collins said.

Yet, while they may be a small percentage of those analyzed, the DNA submitted is showing results.

"Burglaries are processed regularly," said Stacy Warnecke, KSP lab DNA

database supervisor. Of the almost 250 hits reported this year, 75 of those were to burglary cases. Unsolved burglaries are being worked and put into CODIS."

Several years ago in New York City, law enforcement began to evaluate the ways in which DNA could impact how property crimes were investigated. Through grant funding, the Biotracks program was initiated. It didn't take long for their vision of solving more crime to become a reality.

"Years ago, burglaries were a criminal report that a victim would report to the police, and the police, more times than not in New York and throughout the country today, would take that report, file it, and tell the homeowner to call their insurance company, that it was covered under homeowners," said retired New York City Police Detective Sgt. Joe Blozis. "In New York, we had a vision that [burglary]'s a serious crime. It's an invasion of privacy. We began to treat our burglary scenes as if they were crime scenes."

Investigators began to link crime scenes and saw the power of using DNA as an investigative tool.

"We solved no-suspect cases that basically would have been lying in some file cabinet, 'case closed — insurance company,'" Blozis said. "We also looked



at statistical data. The common denominator amongst violent felons was burglary. If you could take the burglar off the street, ultimately, you're going to save lives. Today's burglar could be tomorrow's robber, rapist or killer.

"That's the whole point of this," Blozis continued. "The whole DNA processing area reduces crime and saves lives. DNA is a very, very powerful law enforcement tool."

Collecting DNA from burglary scenes, catching criminals and getting their DNA in the system early accomplishes a similar goal as that of including arrestees in the DNA database. Since criminals — especially burglars — are known to be recidivists, the next time they strike and leave their DNA, law enforcement will know who they are.

"For a female to be raped and her rape kit to sit on the shelf because there's no suspect, that is a tragedy in itself," Blozis said. "The databases are only as strong as what the input is. The more crimes we get in there ... the better."

Like all DNA measures, if Kentucky agencies implement a similar program and begin processing more burglary cases through KSP's forensic lab, a backlog and shortage of resources is inevitable. And with an average of nine months to one year's turnaround time

from the lab, Blozis said cases will come to a halt while investigators await results.

"I'm sure as short staffed as your lab is, all law enforcement, we're short detectives who are working on high profile, priority cases like homicides and rapes," Blozis said. "Now they're going to be looking into burglaries. They get notified that so and so committed a burglary six months ago, now they have to use their resources to track them down. That's our job. That's my job to go lock these people up and take them off the street. Then, from the other side, now we're going to need more prosecutors, more public defenders, and also, you have to look at your correctional facilities."

But, regardless of the hurdles and costs that must be overcome to expand the analysis of more burglary cases, Blozis said you cannot put a cost on a human life, or safety, for that matter.

"This is all about the victims," he said. "Making a safer community, reducing crime where you live. For a person to come home routinely and to go through, hopefully, months and years of not knowing what a crime is, that's what it's all about." 🍷

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Kelly Foreman can be reached at [Kelly.foreman@ky.gov](mailto:Kelly.foreman@ky.gov) or (859) 622-8552.

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## DNA Internet Resources

[www.dna.gov](http://www.dna.gov) — **The president's initiative to advance justice through DNA technology**

Online training opportunities for law enforcement, victim advocates, forensic scientists, officers of the court, researchers, crime lab managers and policy makers. DNA-related grant information. Publications containing information on DNA technology and its applications in criminal justice systems.

[www.dnasaves.org](http://www.dnasaves.org) — **DNA Saves**

Website created by Jayann and David Sepich, parents of a girl who was raped and murdered whose case was eventually solved by DNA. This site provides information about the value of DNA and arrestee DNA testing laws.

[www.denverda.org/DNA/DNA\\_index.htm](http://www.denverda.org/DNA/DNA_index.htm) —

**Denver District Attorney DNA Resources**

Includes legal decisions about a variety of DNA-related issues, information on the Denver DNA Burglary Project, including using DNA to solve property crimes. Website also includes the video, DNA: Critical Issues for Those who Work with Victims.

<http://www.fbi.gov/hq/lab/html/codis1.htm> —

**FBI Combined DNA Index System**

Information about CODIS, including the number of investigations aided to date. ■

## Sgt. Joseph Blozis



**D**etective Sgt. Joseph Blozis was employed by the New York City Police Department from 1979 to 2008. For 13 years as a senior sergeant in the Crime Scene Unit and designated as supervisor of the detective squad, he responded to scenes of serious crimes and incidents within New York City. His duties included the supervision of the search, collection, preservation and documentation of all types of physical and trace evidence. In 1993 and 2001, he oversaw both crime scene investigations involving the terrorist attacks on the World Trade Center. On Sept. 11, 2001, he was on scene as both towers collapsed and was immediately assigned to what is now known as Ground Zero until its completion in May 2002. In 2005, he was reassigned to the Police Crime Laboratory as coordinator of the Biotracks DNA program. ■



# Mother of Child Exploitation Victim Leans on **LAW ENFORCEMENT** During Crisis

KYLE EDELEN | U.S. ATTORNEY'S OFFICE, EASTERN DISTRICT

**I**n 2007, Timothy Scott Richerson, a former youth minister from Madison County, developed an online relationship with Freida Curry's teenage daughter. The then-39-year-old Richerson eventually met Curry's daughter in person and sexually exploited her.

After a thorough investigation by the Richmond Police Department and Kentucky State Police, the Eastern District U.S. Attorney's Office charged Richerson with online enticement of a minor. He pleaded guilty in 2008 and later that year was sentenced to 10 years in prison.

Curry has spoken to law enforcement throughout Kentucky about her experience. In 2009, she was the keynote speaker at a statewide law enforcement conference in Nebraska. Later that year, she was a candidate to share her experience on the "Oprah Winfrey Show."

In a recent interview with the U.S. Attorney's Office, Curry recalled how the Richmond Police Department, KSP and the U.S. Attorney's Office helped her through the difficult experience and inspired her to create more awareness about child exploitation.

## **What was your prior knowledge of the sexual exploitation of children problem?**

I had heard of it, but thought it only happened in big cities like San Francisco. Little did I know that I was watching the show "To Catch a Predator" and down the hall my daughter was talking to a predator on the computer.

## **Describe your emotions when you discovered your daughter had been exploited.**

I sensed something was wrong with my daughter and was praying to find something on her computer. I knew nothing about computers or how to find saved files. I sat down and asked the Lord to let me be able to find any files. I briefly searched and the conversations with this man popped up. When I read that this person had sexual contact with my child, I became frantic and vulnerable. Your heart breaks when you realize this person has taken advantage of your child.

## **What was your initial conversation like with law enforcement?**

When I called the Richmond Police detective, I was irate. I was screaming and sobbing, literally sobbing, that this man had contact with my child, and I'm not able to do anything. Richmond detectives tried to calm me down and talk me through it. They really did a good job of step-by-step walking me through exactly what I needed to do.

## **What did you fear most about the adjudication process?**

It was sort of a helpless feeling. You fear that this man may not be convicted. You wonder if law enforcement will take you seriously. You wonder if you have enough evidence for law enforcement to convict this guy. You fear he might be free to come after your daughter again. This man



(Richerson) knew our patterns. He knew everything about our family, and that's scary.

**What was your thought process once the case began?**

I had lots of anxiety. Once I heard he pleaded not guilty, I began to fear for my daughter. It was such a horrible thought. I cried and cried. I was so scared she might have to take the stand. I don't think she could give her side of what happened. I felt like he had overwhelmed her, and I thought if the outcome of this case depended on her testimony, he might not be convicted. I was frightened that the jury would see her as a willing participant. I feared if he did not go to prison, that we would be at risk, because he knew so much about our patterns.

**How did you feel after sentencing?**

Ten years wasn't enough. No amount of time, in my mind, was going to be enough. I'm very proud I had (Assistant U.S. Attorney) Hydee Hawkins, who prosecuted the case, in my corner. KSP Detective Clyde Bertram and the Richmond police were wonderful. But, I know my daughter wasn't the first person he exploited and won't be the last. I still fear 2016 when he gets out. I fear he will try to find my daughter.

**How helpful was law enforcement throughout this process?**

They were awesome. They kept me informed, just calling me all the time to let me know what I could expect. They really went the extra mile. Detectives Eric Long and Brian Lafferty kept an open phone line for me to call them at all hours, not only with questions and concerns, but also just to talk. That's more than just the 9 to 5 job. Hydee and Georgette Smith (the Victim/Witness coordinator at the U.S. Attorney's Office) called me ahead of time before

court proceedings to let me know what I could expect.

They let me know when he pleaded not guilty, that it was typical and the case was going as expected. That was such a relief, because your mind isn't normal during this process. You question everything, and they helped calm me. I feel indebted to them. Without those people, I don't know how I would've been able to cope with it.

**What would you tell law enforcement about dealing with victims in similar cases?**

Support means so much from a victim standpoint. For a victim to know someone cares, that means the world. Because if you feel overwhelmed, you can just call them to bridge that gap. Making sure the door is open for a good line of communication is the main thing. The detectives were there for me. Even now they are just a phone call or an email away, and that means the world to me.

**How did the experience change your life?**

In my discussions with KSP Detective Clyde Bertram, I found out there were other cases like ours, and that there were literally 20, 30 and 40 computers ready to be looked at for similar crimes. I was astounded about how these detectives work. I began realizing that it is more widespread, and our case wasn't just an isolated incident or one single case. It was then that I decided to go back to school and get a Computer Information Systems degree. I could use that to help protect my family and to help other parents protect their children and hopefully teach them to be proactive. Because if you're not, you're welcoming predators into your home through the computer. 🐞



# Pursuing the Hunt

Kentucky Officers Connecting  
Law Enforcement Through Sport

KELLY FOREMAN | PUBLIC INFORMATION OFFICER

Stress relief. Brotherhood. Recognition.  
Community outreach. Peace and serenity.  
These are a few things all officers could use a  
little more of in their busy and demanding lives.

**T**hey also are the opportunities Matthew Humble and Jermaine Savage hope to share with the law enforcement community through their organization, Police Pursuits Outdoors.

Humble, a Russellville officer of more than seven years, and Savage, a 12-year veteran of the Kentucky State Police, have developed a unique program designed around the sport of hunting. PPO, is providing a chance for law enforcement and military officers, retired or disabled officers and children interested in the sport to get out in the woods and enjoy the great outdoors.

"We had the idea for about a year," Savage said of creating PPO with Humble. "November of last year we started talking about it more seriously, started the website, and through word of mouth, next thing you know here we are. From November to now, 39 states and 23 countries have contacted us."

The purpose of the group is simple — provide recognition for the law enforcement community and an outlet for officers, both in a positive way.

"When I'm out here, I am not worried about what I saw two nights ago," Humble said. "I don't worry about car wrecks or a baby dying. We see some gruesome stuff. All these military — I was prior military — they see some stuff over there. But out here, I don't think about anything. I haven't worried about what's going on in the city right now. Because being out here is peaceful. It's just relaxing."

Savage agreed.

"We're not in this for monetary gain," he said. "We're in it because we want to bring everybody together. We get to come in and hunt and sit out here for two, three, four hours and you don't have to worry about nothing."

Humble and Savage have traveled to several trade shows to spread their message, picked up some sponsors and have already had production companies calling them about creating a television show about what they do.

"We are just one step away from TV," Savage said. "That's laying down actual kill shots video footage. If we get 13 or 14 successful hunts, we'll be on TV. The sky is the limit then."



The team also is working together with a company in Cadiz, Ky. called Brothers in Arms to produce game calls for all types of animals. A portion of the proceeds go back to fallen and injured officers and soldiers.

Since the organization began, Humble and Savage have had a particular interest in giving back to the communities that have supported them. Additionally, the men have a heart for the children they see every day on the job.

"I'm tired of fooling with kids," Humble said. "And I don't mean that in a bad way. But you see so much negativity in kids now, and hunting keeps you out of trouble. It's just like an archery program they started in the school. We've been invited to it several times. Those are kids that aren't athletic. They're not the popular kids in school, but they have something to go do to keep their grades up and stay in school.

"You don't have to be a certain weight or have certain muscles to hunt," he continued. "Us taking one kid hunting may change his life to where we don't have to deal with him 10 years down the road. That's what I'm tired of seeing. I'm tired of dealing with kids who have been molested and everything you can possibly think of. Just because they didn't have a chance in life. Maybe we can give them that chance to go on and do something with their lives."

Humble and Savage are hoping to do three or four mentor hunts with local kids each year. Recently, some handicapped children in Bardstown got the opportunity to see what hunting is all about.

"I love it," Savage said. "We're still doing our job, we're just doing it off duty. I'd rather watch a kid shoot the biggest deer in Kentucky than me do it. I just want to be there and run the camera."

The PPO website is peppered with photos and videos of officers from around the state and country displaying their trophies. While the focus is on hunting, the group is not limited to bows and rifles. There are several fishermen among those who have signed on. There are officers of all ranks who have enjoyed being able to post photos of their kills or catches on the website for their fellow officers to see, Humble said.

"You don't get the recognition you need, and there are a lot of hunters that are in the police world and they like to show off what they do. We keep it like a brotherhood, with military and firefighters – they don't always get the respect they need, either. But everybody is enjoying it, getting to show off what they kill."

If the group ultimately lands its own show, Humble said the success lies in that there is nothing else like it.

"There are cop shows on every channel," he said. "But there are not any on the hunting channels. People love watching the cops. >>

▼ Matthew Humble, left, and Jermaine Savage, have grown up in the woods enjoying the sport of hunting. They began the Police Pursuits Outdoors organization for other officers and military personnel who enjoy the sport to come together and share in the brotherhood while receiving recognition for their prizes.



PHOTO BY JIM ROBERTSON



PHOTO BY JIM ROBERTSON



▲ Russellville Police Officer Matthew Humble right, aims with his bow as his Police Pursuits Outdoors co-founder Jermaine Savage, records his hunt. The group is being pursued by television producers interested in the concept of the organization.

PHOTO BY JIM ROBERTSON



▲ Kentucky State Police Trooper Jermaine Savage demonstrates the use of a game call produced together with a Cadiz, Ky. company called Brothers in Arms.

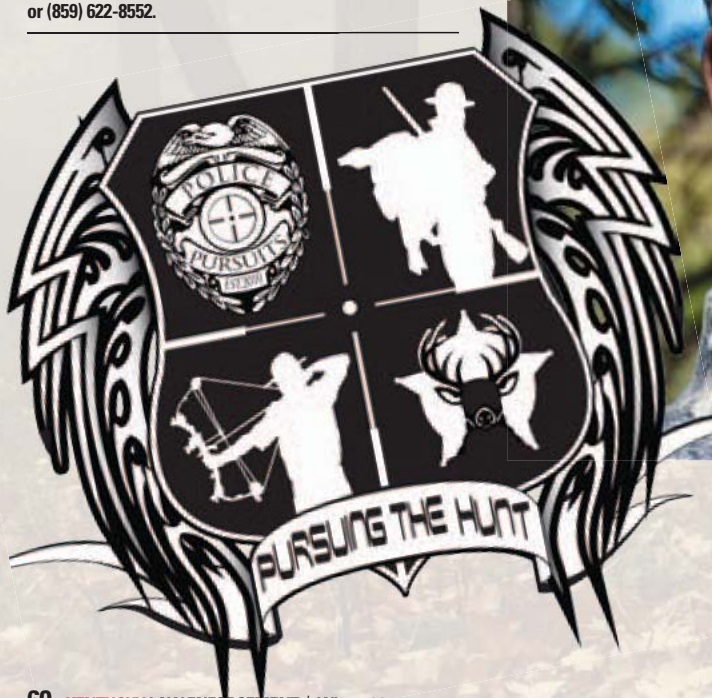
>> We can go in a bad person's home, and they're watching cops."

"When we say cop show, we might show a guy doing a traffic stop just to tell a person to slow down," Savage explained. "We want to bring the attention of everybody — even those who don't hunt — that we're everyday people. When I get off work, I have a son. I have a wife. I have a daughter. I have the same stress of paying the light bill or the water bill like everybody else. When we deal with people — EMS, fire, police — it's negative all the time. We want to show people what these guys do when they get off work. It makes people understand law enforcement a lot better, that we're just doing our job."

There's an added benefit of the recognition among the public, and allowing people to get more comfortable with the officers, Savage said. When they are on the job, that comfort level and acceptance as a respected community member hopefully will turn into suspects or witnesses being more willing to talk when a crime has occurred or is being investigated.

"When they can walk up to me and something happens and nobody is around but they witnessed it, they'll say, 'Come here, let me talk to you, I'll tell you,'" he said. "When you write them a ticket, do this, take away all the time, that's all they see. Then you ask them what happened and it's, 'I don't know.' That is just kind of how we have looked at it." ■

Kelly Foreman can be reached at [kelly.foreman@ky.gov](mailto:kelly.foreman@ky.gov) or (859) 622-8552.





# PAYING IT FORWARD:

## *A profile of Valerie Smith, U.S. Attorney's Office*

KYLE EDELEN | U.S. ATTORNEY'S OFFICE, EASTERN DISTRICT

If you ask the people closest to Valerie Smith to describe her journey that culminated into a career as a successful lawyer you would hear different answers. One of her mentors, Robert (Bobby) Houlihan Jr., an accomplished attorney in Lexington, describes her path as unique. Determination is the word state court judge Pamela Goodwine used while her current boss, U.S. Attorney Kerry Harvey, says “she has a remarkable life story and an uncommon breadth of real world experiences.”

But Smith, who received her law degree in 2007 at age 37, doesn't get the most satisfaction from reminiscing about her road to success, even though she encountered hardships and chaos that threatened to ruin her aspirations.

Smith, now an attorney with the U.S. Attorney's Office in Lexington, points to a recent conversation she had with a stranger as an example of what brings her the most fulfillment.

She was briskly walking through the halls of Rupp Arena, moving toward her seat section to listen to speakers at a motivational conference when she noticed an elderly gentleman staring at her.

The man offered her a pleasant gaze of familiarity causing Smith to stop.

“Can I ask you a question?” said the man with an upbeat tone. “Aren't you that attorney who gave that presentation on bankruptcy and foreclosures?”

Smith acknowledged him, paused and then smiled while the man shared just how informative Smith's presentation had been for him.

It had been a year and a half since Smith volunteered to present the information at a conference on behalf of the Urban League's Young Professionals.

As Smith thanked the man, she was filled with warm satisfaction.

“That's what it's all about,” Smith said to herself.

The man's comments would've also made her mother proud, for that's who taught Smith one of life's most important principles – one that provides supreme motivation and purpose every day she opens her eyes.

Paying it forward is a concept that others taught her and she's passing it on through her devoted actions.



Made popular by the 2000 movie, “Pay it Forward” is loosely defined as a recipient of a good deed doing a good deed for a third party rather than paying the favor back to the original person.

Smith lost her stepfather when she was young, leaving her mother, who worked for the New York City Board of Education to raise Smith and her four siblings, including her adopted brother, all on her own. However, that didn't stop Smith's mom from frequently welcoming underprivileged children into their home for meals, lodging, mentoring or whatever they needed that Smith's family had to provide.

“If we had, they had,” said Smith. “That's what I saw my mom do, and it's all I know. You must give back to others.”

More than two decades ago, Smith embarked on a difficult journey that would ultimately help her pay it forward. She began raising her infant twins on her own at age 20 while putting herself through college at Fordham University in New York City.

Smith graduated from Fordham in 1994 with a degree in political science and then worked as a court officer in New York while earning her master's degree in Social Services.

Because of the high cost of living in New York City and Smith's devotion to provide better housing and schooling for her children, she at times worked two and three jobs ranging from a social worker and a court officer to an office manager at a bail bonds agency. Being a single parent of two and working several jobs barely spared Smith enough time to blink before starting the same day all over again.

After spending almost 25 years of her life in New York, Smith, a Kentucky native, moved back to the Bluegrass State in August of 2003 to pursue a law degree at the University of Kentucky and raise her family in what she hoped was a safer environment.

But shortly after she arrived in Lexington mother nature viciously interrupted her plans.

On May 27, 2004, Smith received a phone call from her son who was at a neighbor's house asking how to protect himself from a tornado. Smith immediately turned on the local news to listen to the meteorologist.

She can still recall the frightening moments right before a tornado slaughtered her new home. >>



*What Judge Goodwine was to me, I wanted to be for others. Be someone who other minorities can look at and see that they can dream big and accomplish those dreams right here in Kentucky.*

>> Shortly after hanging up the phone, the meteorologist's voice was replaced by loud static as the television signal disappeared. Suddenly, the roof of her house collapsed inward from the tornado's wrath.

"I thought my house exploded from a bomb or something," Smith said.

A furious wind gust ushered Smith off the ground and onto part of her collapsed roof that caused her to slide into the dismantled basement of her home.

"We lost everything except the clothes on our backs," she said. "But I didn't have time to panic because I had invested everything into this move. It was difficult but I had no choice but to go on."

The experience helped Smith better relate to others who experienced adversity, she said.

While her house was being rebuilt, Smith started law school at age 34. During her first year, she went to school during the day and worked an eight-hour overnight shift in the court system monitoring juveniles who were arrested in Fayette County. The days and nights often seemed like a blur.

"Some days I came home from class, cooked dinner for the kids, did homework, left around midnight for work and got off in time to see the kids off to school and go back to class," Smith said.

Yet even with all of this going on around the city of Lexington, Smith noticed something that startled her.

"There was a lack of diversity," she said.

To put it in perspective, out of the 130 plus students in her class, only a little more than a handful were minorities.

"I probably noticed it more because I was raised in a big city; in New York everywhere you go there's diversity," she said. "I was concerned, not so much for me, but for the minorities of younger generations. They really didn't have a lot of prominent minority role models; especially in the legal profession."

Smith, an African American, developed a personal relationship with Judge Pamela Goodwine who had beaten the odds. She overcame a near-death experience to fulfill her dreams of becoming a judge; In August 1999, she became the first African-American female to be appointed to the bench in Fayette County and subsequently elected.

"Judge Goodwine was so important because she was one of a few examples in Lexington that I had of someone who had triumphed as a minority," Smith said.

"I was glad she had someone to turn to," said Goodwine. "I tried to be an inspiration and motivate her."

Goodwine's journey helped spark a vision in Smith beyond just becoming a lawyer.

"What Judge Goodwine was to me, I wanted to be for others," Smith said. "Be someone who other minorities can look at and see that they can dream big and accomplish those dreams right here in Kentucky."

Driven by this passion, Smith focused her attention on having an impact on diversity at the University of Kentucky College of Law.

She and another law student teamed up with the assistant dean for admissions at the UK's College of Law, Drusilla Bakert, to travel around the region to assist in recruiting more minorities to the law school. They were the first students hired by Bakert to serve as recruiting assistants.

"Valorie went above and beyond what was required, as she tends to do," Bakert said. "She just didn't help recruit the students and then lose contact with them once they got to the school. She really kept in touch with them and served as a role model for them."

Bakert still directs the program today and said that the school's minority enrollment went from 12 percent in 2007 to as high as 17 percent in 2009 and 2010.

Smith also co-created a program dubbed "law student for a day" at the UK's College of Law in 2006 that still exists today. It provides under graduate minority students who have an interest in attending law school an opportunity to spend the day shadowing a current minority law student. The program's goal is to also establish mentoring and networking relationships that will encourage the prospective minority student to pursue a legal career.

"If it encouraged one person then it's been a success," Smith said.

"She really helped with recruiting," Bakert said. She created a lasting impact. People like Valorie don't come along every year."

In addition to her efforts to improve diversity, she has served key roles with numerous organizations that consistently work to help grow Lexington, such as Women Leading Kentucky, Partners for Youth, Commerce Lexington's Minority Economic Development Advisory Committee and Lexington's Urban League Young Professionals.

One of Smith's proudest and most important accomplishments in her efforts to help others involves her work with the Kentucky Legal Educational Opportunities program. It offers scholarships to attend one of Kentucky's three law schools. The scholarships are

awarded to under-represented, low-income, or educationally disadvantaged Kentucky residents.

Two years ago, KLEO nearly collapsed when it lost state funding. However, Smith assisted in organizing fund raising events and made numerous phone calls soliciting donations to ultimately help raise approximately \$16,000 to keep the program afloat for that year.

Through this program, Smith herself was mentored during her law school days by her now close friend Bobby Houlihan. Smith says Houlihan went above and beyond and was more than a mentor who helped her through difficult moments.

"I'm a better person, attorney and mentor thanks to Bobby," Smith said. "Bobby taught me, you don't have to try and change the world to have an impact. Helping one person at a time can make a world of difference."

Thanks to the program, Smith can pay it forward by mentoring other law students at UK's College of Law.

One of the students she's mentored is Sunni Harris who now works at a prominent Lexington law firm; Harris felt Smith's impact.

"She really showed me it was possible," Harris said. "I was encouraged by her being a single mother and working night jobs to pay bills. I knew if she could make it, I could as well."

Harris now volunteers at her church tutoring young kids who can't afford to pay for a tutor.

"I feel a responsibility to pay it forward," Harris said. "Whether that be tutoring or offering a helping hand. I would just like to be able to help the next generation under me succeed."

But if Harris hasn't figured it out yet, she will soon learn what Smith already knows about paying it forward.

"You get so much more in return than you ever gave," Smith said. "Seeing Sunni succeed means so much to me." 🍷







## Sheriff Patrick Boggs

### Mason County Sheriff

Patrick Boggs is currently serving in his second term as sheriff of Mason County after being elected in 2006. Boggs holds a Bachelor of Science degree in Criminal Justice from Kentucky Wesleyan College. In 1997, Boggs served as a deputy jailer in Mason County before joining the Mason County Sheriff's Office as a deputy sheriff. Boggs and his wife of 10 years, Kristy, have two daughters, Avra and Aleah.

#### WHAT PROACTIVE STANCE HAS YOUR DEPARTMENT TAKEN SINCE YOU BECAME SHERIFF OF MASON COUNTY?

The Mason County Sheriff's Office has become a self-sufficient law enforcement agency by utilizing all its internal resources. We took the certified deputies out of the court house and initiated the court security officers program, enabling the trained deputies to patrol the roads and investigate crimes. By increasing patrols we have been a proactive, more visible law enforcement force in the county. We also have initiated a narcotics investigation team that has produced tremendous results. The drug-related arrests are up more than 100 percent and the value of the drugs taken off the streets is in excess of \$200,000. The sheriff's office has become more involved in the community by joining forces with other organizations for education about drugs.

The Mason County Sheriff's Office, like the majority of law enforcement agencies, has had to endure budget cuts. We have taken an aggressive approach in seeking alternate funding to supplement those cuts. Mason County has entered into inter-local agreements with surrounding

The Mason County Sheriff's Office is now set apart by clear missions, and strategic vision and leadership.

agencies that enables more visibility and coverage while saving on fuel and cruiser maintenance. Grants are a priority in our tight budget times; we are continuously seeking funds for new equipment and overtime from these sources. Since 2007, the Mason County Sheriff's Office has received close to \$250,000 in grants for equipment and overtime. It is imperative in today's world that law enforcement remains equal to the criminal element, we can't fall behind or our communities suffer. I believe that the Mason County Sheriff's Office has become a proactive agency with the changes that have been made.

#### WHAT MAKES YOUR DEPARTMENT STAND OUT ABOVE THE REST?

The Mason County Sheriff's Office is constantly updating and changing with the times. We are continuously exploring innovative ideas and equipment introduced to the law enforcement community. I feel that we have become a law enforcement agency that the people of Mason County and the surrounding area can depend on for immediate and professional response. Since education and training are key aspects that all law enforcement must rely on, we encourage more training and education in our office. After receiving new training, deputies are expected and encouraged to take this knowledge to the next level and incorporate it into their daily techniques. The Mason County Sheriff's Office is now set apart by clear missions, and strategic vision and leadership.

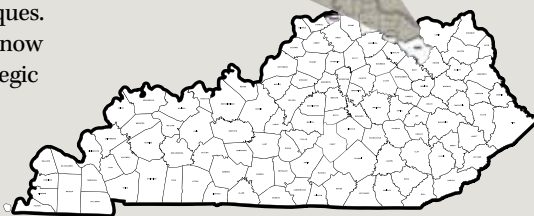
#### WHAT'S THE MOST IMPORTANT FEATURE YOU THINK EVERY

#### LAW ENFORCEMENT OFFICER SHOULD KNOW ABOUT DNA EVIDENCE?

DNA evidence is being used more and more to assist in the conviction or clearance of charges. The most important feature officers should be aware of would be the contamination of possible DNA evidence. The collection and preservation of the evidence is key for trial, and one must be aware of all the aspects in which it could be contaminated. A simple sneeze or cough, not wearing gloves, or even a piece of hair falling out could contaminate the evidence and eliminate possible proof of the crime.

#### WHAT ARE YOUR LONG-TERM PLANS AND GOALS FOR THE DEPARTMENT?

My expectations have far been exceeded since being sworn in as sheriff, but as old goals are accomplished, new goals must arise. I believe that each agency must challenge itself to meet and confront the growing trends in technology and how they are applied to law enforcement. Deputies are currently being trained in the newest and most advanced methods for combating computer and cyber crimes. In the future, it is my plan to have individual deputies trained in specific curriculums so that the Mason County Sheriff's Office will have more resources available.





## Chief Guy Howie

### Hopkinsville Police Department

Guy Howie started his civilian law enforcement career with the Del City, Okla. Police Department in 1980. In 1982, he was employed with the Ocala, Fla. Police Department for 27 years. His assignments included the patrol division, detective and school resource officer. In April 2008, he retired from the Ocala Police Department after being hired as the Hopkinsville police chief. Howie is a U.S. Air Force veteran. He also is a graduate of the FBI National Academy 205th session. He is married to Debbie and they have three children: Mandy, Kyle and Jackie. They have one granddaughter, Aislyn. His son Kyle is a member of the Russellville Police Department.

#### WHAT MAKES YOUR DEPARTMENT STAND OUT ABOVE THE REST?

Without a doubt, it is the dedicated men and women of the Hopkinsville Police Department who make this agency one of the finest in Kentucky. Both the officers and the civilian support staff stand ready to take on any challenge placed before them. There is not a day that goes by I don't receive some type of positive comment about an employee or action the department took to improve the community. The best example I can give is recently the Hopkinsville Middle School students dedicated their yearbook to their school resource officer. The members of this department have embraced change and used it to improve the agency and the community.

#### SINCE BEING NAMED CHIEF OF HOPKINSVILLE POLICE DEPARTMENT,

The members of this department have embraced change and used it to improve the agency and the community.

#### WHAT CHANGES HAVE YOU MADE TO THE DEPARTMENT?

First and foremost, we changed the culture from a reactive law enforcement agency to a proactive police department which is a part of the community. We created partnerships to address both crime problems and quality-of-life issues. We created a team-policing attitude by changing shift schedules from a fixed eight-hour shift to a 10-hour rotating days off shift. We instituted a data driven approach to crime and traffic problems. This allows us to more directly assign personnel to problem areas. By using this approach, so far this year the department has significantly reduced traffic accidents and, at the same time, reduced the amount of traffic citations issued. The department is piloting two new programs this year: the formation of

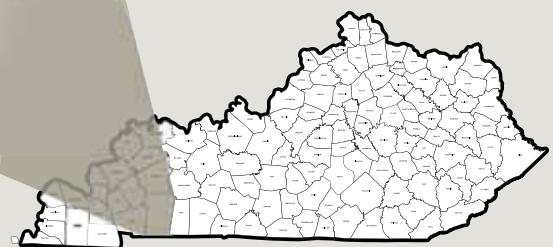
a traffic unit and teaching Gang Resistance Education and Training in our middle schools. Another significant change to the department is the great strides I've taken in upgrading officer equipment necessary to successfully perform their duties. The K-9 team has been expanded from one to four officers. Also, leadership training is now a requirement to be promoted. It is everybody's responsibility to train their subordinates to take their place.

#### WHAT'S THE MOST IMPORTANT FEATURE YOU THINK EVERY LAW ENFORCEMENT OFFICER SHOULD KNOW ABOUT DNA EVIDENCE?

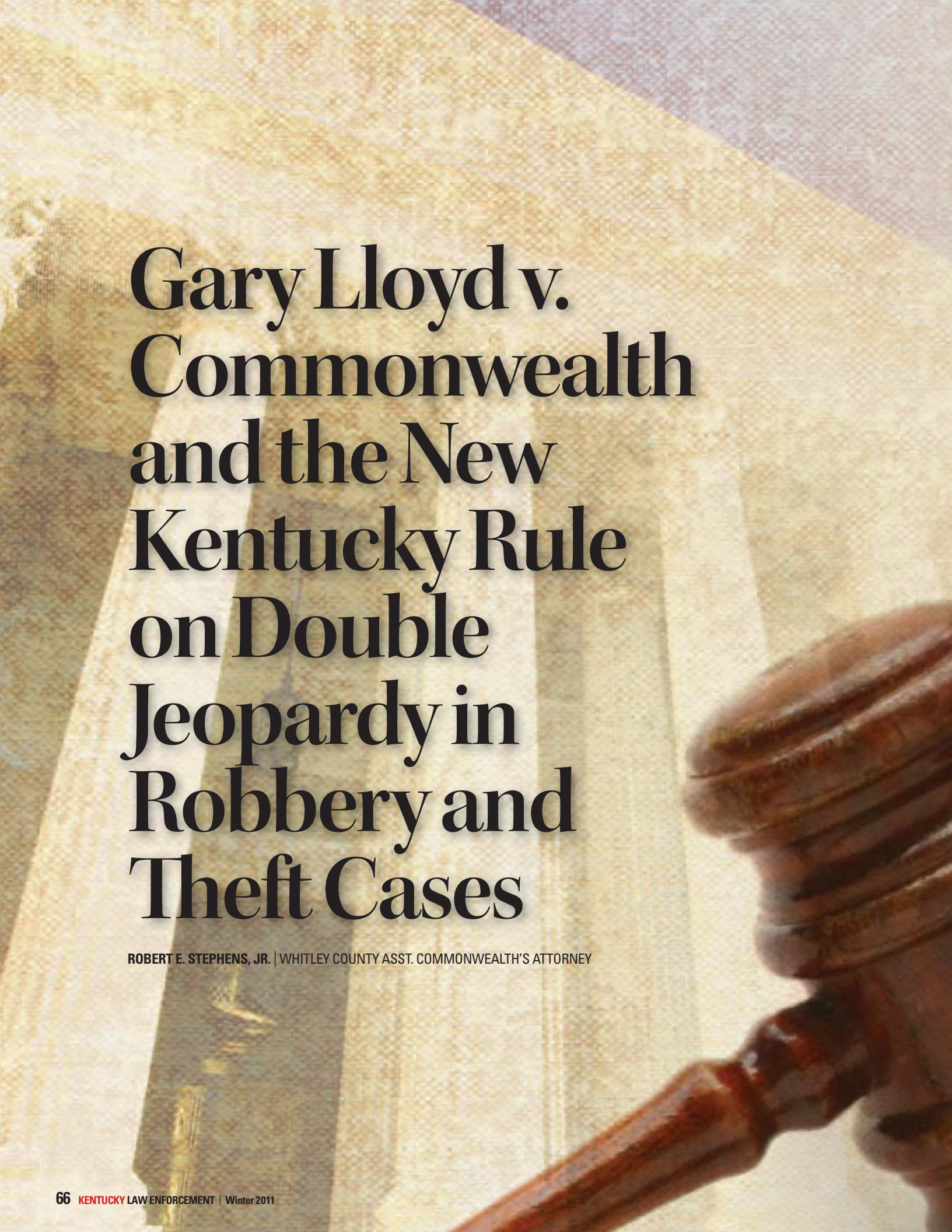
First and foremost, what DNA evidence is. Other important features are how to identify DNA evidence, where it can be found, how to preserve it and how to collect the evidence.

#### WHAT ARE SOME HIGHLIGHTS FROM THE 2011 KACP CONFERENCE THAT YOU MAY LOOK TO IMPLEMENT IN HOPKINSVILLE?

This year, there was a big emphasis placed on intelligence and homeland security. With our proximity to Fort Campbell and recent events in our country as it relates to off-base attacks to military personnel, I have created a Homeland Security/Intelligence Section. This section will be responsible for all criminal intelligence received and distributed by the agency.








# Gary Lloyd v. Commonwealth and the New Kentucky Rule on Double Jeopardy in Robbery and Theft Cases

ROBERT E. STEPHENS, JR. | WHITLEY COUNTY ASST. COMMONWEALTH'S ATTORNEY





If there is a constant in the criminal law, it is that changes happen, often when you least expect them. That truism was recently proven correct by the Kentucky Supreme Court's published opinion in Gary Lloyd v. Commonwealth of Kentucky, 2008-SC-000206-MR, on October 21, 2010. That decision immediately and radically impacted the way police officers and prosecutors charge and try robbery cases in the commonwealth. This decision does not overturn the hope of prosecuting robbers in Kentucky — the sky has neither fallen, nor is it falling — but Lloyd does effect directly the way robbery cases should be charged and must ultimately be presented by instructions to juries.

#### **THE LAW AS WE KNEW IT: BLOCKBURGER AND DOUBLE JEOPARDY.**

Double Jeopardy is the principle that one cannot twice be held to answer for the same crime. As the Court noted in Lloyd, the Kentucky Constitution, Section 13, states “[n]o person shall, for the same offense, be twice put in jeopardy of his life or limb....” The Fifth Amendment of the Bill of Rights shares this restriction on the power of government. Black’s Law Dictionary defines double jeopardy as “the fact of being prosecuted twice for substantially the same offense.” The basic idea is thus that the government shall not try a person criminally over and over, despite either acquittal or guilty verdict, for the same crime.

Does that mean a person who robs, kidnaps, and rapes the same victim can only be convicted of one of those crimes?

Intuitively, we would say of course it does not mean that: as it would be both illogical and unjust. A person should answer for his crimes, the law does not exist solely to protect the accused and the wrong deed must be punished. How to strike the balance between not committing Double Jeopardy and holding defendants accountable for multiple crimes committed during the same course of conduct was historically met by following the United States Supreme Court’s reasoning in Blockburger v. U.S., 284 U.S. 299 (1932).

Blockburger states that “where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not.” Kentucky, as the Lloyd Court notes, quoting from Com. v. Burge, 947 S.W.2d 805 (Ky. 1996), uses the Blockburger test, which it distills artfully to the phrase, “is one offense included within another?”

#### **BLOCKBURGER IS NOT ENOUGH!**

The Kentucky High Court, however, opines in Lloyd that reviewing Blockburger alone is not sufficient. In other words, one cannot merely read the elements of robbery and theft in Kentucky Revised Statutes to see if there is any element which is different between the two. If that were all (i.e. if the Blockburger rule alone were applied), conviction for both robbery and theft in Kentucky would not violate the Double Jeopardy clause and Gary Lloyd’s conviction for both threatening drug store employees with a handgun while stealing OxyContin pills would have withstood appeal. The Kentucky Supreme Court reasoned, however, that since the Blockburger Double Jeopardy rule is a rule of statutory construction, meant to guide courts interpreting statutory language, the Blockburger rule is trumped by the expressed intent of the persons who drafted the Kentucky statutes on theft and robbery: in other words, the General Assembly. >>



## >> THE NEW RULE ON ROBBERY IN KENTUCKY

The Kentucky Supreme Court, while discussing briefly some prior case law holding that the two crimes of Robbery and Theft were mutually exclusive, rested its decision on what it describes as the legislature's "sufficient indicia of intent to prohibit convictions for both first-degree robbery and felony theft arising from one underlying theft."

First, the General Assembly chose to use prominently the word *theft* in KRS 515.020, the applicable robbery statute. Specifically, KRS 515.020(1) provides that a person commits first-degree robbery when 'in the course of committing theft....' The use of the specific word *theft* in both the robbery statute and in the theft by unlawful taking statute is surely not coincidental. We believe that the use of the same term in both statutes evinces the General Assembly's intent to define robbery as being theft plus the additional element of force or threatened force.

This conclusion is readily reinforced by the previously mentioned commentary to KRS 515.020, which provides, in relevant part, that 'all of the elements of the crime of theft as set forth in KRS 514.030 are incorporated into this offense.' We believe that commentary, which, of course, may be used as an aid in construing the statutes of the penal code, represents an unmistakable expression of intent for theft by unlawful taking to be subsumed into robbery. It would be a clear violation of legislative intent, therefore, for a person such as *Lloyd* to be convicted of both theft by unlawful taking and robbery based upon the same incident of theft. *Id.*, at 10-11.

Because the Court found this clear intent of the legislature, the *Blockburger* standard is no longer to be applied for robbery and theft charges in Kentucky. The Kentucky Revised Statutes themselves, however, contain no black letter language requiring a conviction of one or the other crime. In addition, prosecutors and judges for years have applied the *Blockburger*

standard to theft and robbery, presenting both in jury instructions as convictable crimes, rather than the either/or approach required after the Court's discovery of the legislature's intent in *Lloyd*.

### WHERE DO WE GO FROM HERE?

So, what is the practical effect for prosecutors and officers making charging decisions in light of *Lloyd v. Commonwealth*? Prosecutors and law enforcement officers faced with an accused robber must charge him only with robbery. Theft can no longer be an additional charge unless a separate something was stolen other than that which was the subject of the robbery. Such a situation might, however, require a severance of the charges for trial.

At trial, the commonwealth must do what seems like the opposite of its duties at charging. Since theft is a lesser included offense of robbery, theft must be included as a lesser included offense in jury instructions every time robbery is charged. At trial then, jurors can choose to find the defendant committed the lesser included offense of theft rather than the robbery. Failure to do as instructed in *Lloyd* will result in the case returning on appeal for retrial for improper jury instructions. Future prosecutors may not be as fortunate as in *Lloyd*, in which the Court upheld the defendant's robbery conviction and ordered the trial court to dismiss the theft charge and enter a new final judgment based solely upon the robbery conviction. Absent a change in the statutory language, the *Lloyd* decision will be with the courts for some time to come.

For prosecutors and law enforcement investigators, the job is not so much to change the law to suit a vision of what is just, as to be able to apply the law as it exists. Reliability in these professions, more often than not, beats out ingenuity every time. In that vein, the *Lloyd* decision is helpful, as it gives clear guidance to officials seeking to enforce the law and punish those who commit robberies in the commonwealth. Applying *Lloyd* correctly to charging decisions, and later in drafting jury instructions, will lead to solid convictions that keep robbery defendants where they belong — in jail. 🍷







#### **515.020 Robbery in the first degree.**

(1) A person is guilty of robbery in the first degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft and when he:

- (a) Causes physical injury to any person who is not a participant in the crime; or
- (b) Is armed with a deadly weapon; or
- (c) Uses or threatens the immediate use of a dangerous instrument upon any person who is not a participant in the crime.

(2) Robbery in the first degree is a class B felony.

**Effective:** January 1, 1975

**History:** Created 1974 Ky. Acts ch. 406, sec. 130, effective January 1, 1975.

#### **515.030 Robbery in the second degree.**

(1) A person is guilty of robbery in the second degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft.

(2) Robbery in the second degree is a class C felony.

**Effective:** January 1, 1975

**History:** 1974 Ky. Acts ch. 406, sec. 131, effective January 1, 1975.

#### **515.010 Definition.**

The following definition applies in this chapter, unless the context otherwise requires:

“Physical force” means force used upon or directed toward the body of another person.

**Effective:** January 1, 1975

**History:** Created 1974 Ky. Acts ch. 406, sec. 129, effective January 1, 1975.

#### **514.030 Theft by unlawful taking or disposition — Penalties.**

(1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:

- (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
- (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a class A misdemeanor unless the value of the property is five hundred dollars (\$500) or more, in which case it is a class D felony; or unless:

- (a) The property is a firearm (regardless of the value of the firearm), in which case it is a class D felony;
- (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a class B felony for the first offense and a class A felony for each subsequent offense; or
- (c) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a class C felony. ■





# LEGAL SHORTS

**SHAWN HERRON** | STAFF ATTORNEY,  
DOCJT LEGAL TRAINING SECTION

*It is often a surprise to law enforcement officers to learn that Kentucky law (and the law of other states) permits a juvenile to drink an alcoholic beverage under specific circumstances.*

#### **HB 463 ARREST AUTHORITY; DRIVING ON SUSPENDED OPERATOR'S LICENSE; AND DUI SUSPENDED OPERATOR'S LICENSE**

The question has been asked several times since the training on House Bill 463 was conducted as to whether an officer may arrest on the charge of operating on a suspended/revoked operators license, and operating on a license revoked/suspended for DUI. As a reminder, first and foremost, per our teaching instructions, you should ALWAYS check with your county attorney, since he/she is the one who will be defending you in the event of a problem, as well as for prosecution guidance.

Officers may still arrest for traffic offenses that carry jail time as potential punishment. That is, at a minimum, the offense must be a class B misdemeanor. KRS 281.765 provides this authority to arrest. To find which traffic offenses an officer may arrest for, you need to check the "Penalties" section of the statute (KRS 186.990).

KRS section 186.990 reads in part as follows:

(3) A person who violates the provisions of KRS 186.450(4), (5), or (6) or 186.452(3), (4), or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a class B misdemeanor.

The first sentence in subsection (3) referring to specific sections of KRS 186.450 and KRS 186.452 concern PERMIT holders and makes violations of permit provisions a FINE only punishment. Since all remaining statutes covered between KRS 186.400 to KRS 186.640 are misdemeanors, then you may still arrest pursuant to KRS 281.765.

KRS 186.620 reads in part as follows:

(2) No person who has not applied

for an operator's license or whose operator's license has been denied, canceled, suspended or revoked, or whose privilege to operate a motor vehicle has been withdrawn, shall operate any motor vehicle upon the highways while the license is denied, canceled, suspended, or revoked or his privilege to operate a motor vehicle is withdrawn, or the license has not been applied for. (This is a class B misdemeanor, and is arrestable.)

Also, no operator's license, per the provisions of KRS 186.410, is a class B misdemeanor, and is an arrestable offense.

Operating on a license revoked/suspended for DUI is covered in KRS 189A.090. Subsection (2) makes the first offense a class B misdemeanor; and enhances the penalties for subsequent offenses, making this statute one that an officer may make an arrest for as well.

#### **HOTEL GUEST PRIVACY**

Within the past year, both Kentucky and the U.S. Court of Appeals, Sixth Circuit, have ruled that guests do not retain an expectation of privacy once they have overstayed at a hotel past the checkout time. In both Blades v. Com., 339 S.W.3d 450 Ky., 2011 and U.S. v. Lanier, 636 F.3d 228 (6th Cir. 2011), law enforcement officers entered the room following the expiration of the rental period and found contraband. And, in both cases, the respective courts agreed that a guest has no expectation of privacy in the room following the check-out time, absent specific circumstances that might have given them a reason to believe that they might.

#### **UNDERAGE DRINKING**

It is often a surprise to law enforcement officers to learn that Kentucky law (and the law of other states) permits a juvenile to drink an alcoholic beverage under specific circumstances. In Pritchard (and others) v. Hamilton Township Board v. Trustees, 424 Fed.Appx. 492 (6th Cir. 2011), officers made a number of arrests at a backyard party. During the raid, they discovered an underage subject drinking an alcoholic beverage who they subsequently cited. Officers knew, however, that the boy was at the party with his father who presumably allowed him to have the drink. The charges were dismissed and the officers involved were subsequently sued for the arrest. The officers denied knowing that Ohio law permitted a juvenile subject to drink alcoholic beverages under those circumstances, although it clearly did, with the Court stating that "knowledge of [a] statute is imputed to the police officers." (It was particularly egregious since he was cited under the same provision that provided the exception.) Kentucky law provides the same exception in KRS 530.070, unlawful transaction with minor in the third degree. It should be noted, however, that this does not, of course, permit the juvenile to drive after the fact nor does it permit the juvenile to become so intoxicated he or she would be at risk of harm.

#### **TERRY FRISK AND OFFICER SAFETY**

In the recent unpublished case of Shelton v. Com., 2011 WL 1515288 (Ky.App., 2011), the Kentucky Court of Appeals emphasized that a Terry frisk is done only for the purpose of locating a potential weapon, and only when there is reasonable suspicion that the individual actually has a

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>> weapon. In Shelton, the officer testified that he frisked for “routine safety reasons” and that every time he detained an individual he performed a frisk. During the frisk, the officer found an item that could not have been mistaken for a weapon, and in fact, the officer admitted he “had no idea what it was.” It was, in fact, a soft package of cocaine. Although other facts in the case suggested that the officer may have actually had reasonable suspicion, the reason actually given for the frisk was simply officer safety. Further, the item removed could not have been perceived as a weapon at all. The Court found that an insufficient reason and allowed the evidence (in this case drugs) to be suppressed.

#### TRAFFICKING IN OR NEAR A SCHOOL

One statute in the KRS that has been extensively used in the war against drugs is KRS 218A.1411, trafficking in or near a school. There have been two very important developments regarding this statute in the past year, one being an amendment by the General Assembly, the other a court case.

In the 2011 General Assembly regular session, two bills were passed which among other things amended KRS 218A.1411 in exactly the same manner. Previously, the statute punished as a class D felony trafficking in any controlled substance or controlled substance analogue in any building used primarily for classroom instruction or on any premises located

within 1,000 yards of such a building. As part of the General Assembly’s efforts to reduce the prison population, in HB 463, the radius was reduced to 1,000 feet. The same change was enacted in HB 121, Section 8. This has the obvious effect of greatly reducing the applicability of the law. Under the old language, the locations of the schools in a community caused nearly the entire community to be covered by the law. With this change, prosecutions and convictions for violations of KRS 218A.1411 will likely decline significantly. It is still punished as a class D felony.

In 2010, the Kentucky Supreme Court handed down its decision in the case of Saxton v. Com., 315 S.W.3d 293 (Ky. 2010). The issue in the case was whether Saxton could be convicted of a violation of KRS 218A.1411 when he was unaware of the location of a school building and his proximity to it when he was trafficking in controlled substances. The court upheld Saxton’s conviction, holding that there was nothing in the text of the statute that required that the actor had to be aware of the proximity to the school building. It was enough that he was trafficking within the 1,000-yard radius. There is no reason to believe that the holding in Saxton would not apply within the reduced coverage of a 1000-foot radius as KRS 218A.1411 has been amended.

KRS 218A.1411 is still a valuable tool to be used when applicable to combat drug trafficking activity in and around the

schools of the commonwealth. Officers should make use of it whenever it will apply.

#### KIDNAPPING EXEMPTION

During the investigation of a sexual or other assault, the facts often suggest that the victim was also held down for longer than would be necessary to commit the actual underlying crime. In such cases, the investigating officer might consider also placing charges of unlawful imprisonment or even kidnapping. Several cases in recent years have clearly indicated that the charge might apply if the facts are appropriate. In Griffith v. Com., 2009 WL 277333 (Ky. App. 2009), for example, Griffith seized his wife, forcibly held her down and lectured her at length, and ultimately physically assaulted her. The Court agreed that an additional charge of Unlawful Imprisonment, under KRS 509, was also appropriate. In Duncan v. Com., 322 S.W.3d 81 (Ky. 2010), the victim was taken from one location to another location for the purposes of a sexual assault. Finally, in Cox v. Com., 2011 WL 287321 (Ky. 2011), the victim was taken to another part of the house and sexually assaulted, and further held for a period of time before she finally escaped. In all three cases, the defendant raised the Kidnapping Exemption, codified in KRS 509.050. That statute prevents charging for a Kidnapping or Unlawful Imprisonment when the restraint was part and parcel of another crime outside KRS 509. In all three, however, the Court held the exemption not to apply because the restraint in each case did not occur “close in distance and brief in time,” and held that placing a separate charge under KRS 509 was appropriate. The Court noted that for the Kidnapping Exemption to apply, three requirements must be met: (1) the underlying criminal purpose was the commission of a crime defined outside KRS Chapter 509; (2) the interference with the victim’s liberty occurred immediately with or incidental to the commission of the underlying intended crime; and (3) the interference with the victim’s liberty did not exceed that which is ordinarily incident to the commission of the underlying crime. (Hatfield v. Com., 250 S.W.3d 590 (Ky. 2008). Only when all three requirements are not met can the defendant be separately charged with kidnapping or unlawful imprisonment. 🏠

*KRS 218A.1411 is still a valuable tool to be used when applicable to combat drug trafficking activity in and around the schools of the commonwealth. Officers should make use of it whenever it will apply.*





# Because Knowledge is Power:

## Stalking and Harassment in the Digital Age

HONORABLE DAVID TAPP, CIRCUIT JUDGE | 28TH JUDICIAL CIRCUIT AND BRANDON DAULTON, J.D., STAFF ATTORNEY

While state and local law enforcement efforts to identify, collect, and use digital evidence are rapidly increasing, one of the most prevalent offenses involving the Internet and digital devices is routinely not reported to police and rarely results in prosecution. As a recent report to Congress noted, some law enforcement agencies are not fully aware of the extent of cyberstalking and “lack the expertise and resources to identify and pursue cyberstalking cases.”

### THE PROBLEM

Generally, cyberstalking is understood to be the use of the Internet or digital devices to persistently harass and annoy another. Cyberstalkers use modern technology to gain or maintain power and control over another. Cyberstalking is typically manifested by repeated and unsolicited email, voicemail and text messages, interception of the victim's digital data, surveillance of the victim's whereabouts and interactions with third persons, and impersonation and embarrassment of the victim.

Stalking behavior itself, of course, is nothing new. Poetry, books, films and songs have chronicled or even romanticized obsessive behavior between would be or former intimate partners. All states currently prohibit a course of conduct, which is intended to harass or threaten another. Law enforcement is certainly familiar with the rather commonplace issue of traditional off-line stalking.

Recent Department of Justice Research indicates that an estimated 14 in every 1,000 persons age 18 and older are victims of stalking. Of those, 11 percent reported

*I'm your worst nightmare. Your troubles are just beginning.....*



being stalked for a period of five years or more. Aside from the mental, emotional and economic toll of such conduct, stalking victims routinely suffer other severe consequences at the hand their perpetrators. Nearly 25 percent of stalking victims also report property damage, and 21 percent report being physically assaulted. Also, alarming is that 15 percent of victims reported attacks on family members, friends, co-workers, children and pets by their stalkers.

Cyberstalking represents an alarming subset of all stalking victims. According to the DOJ, more than 25 percent of stalking victims were also harassed by use of digital technology including GPS tracking, computer spyware, instant messaging, or visual and audio recorders. Put simply, as much as digital technology helps us in most aspects of our daily lives, it also enables malevolent perpetrators to track, interfere with and abuse their victims. For most of us, digital devices are an aid in an ever-increasing technological world. But for some victims, digital devices mean an increased risk of physical assault and/or death.

It is important to understand that both cyberstalking and off-line stalking involve an attempt to induce fear and to exercise control over the victim. But cyberstalking (1) uses the Internet for instantaneous harassment, (2) does not require proximity with the victim, (3) offers greater anonymity to the offender, (4) allows perpetrators to more easily impersonate their victim, and (5) can encourage third-parties to harass their victims.

Cyberstalking victims report similar complaints such as “he always knows

where I am” or “he knows everyone I talk to or text.” Much of the behavior of digital stalkers standing alone would be cause for alarm. The use of threatening language such as “I am your worst nightmare,” discussions of murder/suicide, or physical intrusion into a victim’s private spaces such as a residence or car to implant surveillance devices are by themselves often violations of the law. These types of conduct, when coupled with a lengthy and persistent pattern of less overtly threatening behavior, are extraordinarily alarming, as well as physically and mentally disruptive to an individual struggling to put distance between herself and her abuser.

Stalkers themselves typically can be characterized as one of three types. The first category is erotomania. The term commonly refers to what we think of as celebrity stalkers and is characterized by the delusional belief that his victim loves him, but is unobtainable. The second type is classified as the love-obsessional stalker. These individuals have no relationship with the victim but may have had some sort of prior contact. Finally, a simple-obsessional stalker refers to those offenders who have had a previous relationship, oftentimes intimate, with the victim. These perpetrators are motivated by a desire to resume the relationship or for retribution. It is this group of offenders which law enforcement is most likely to encounter. These cases may also be the most dangerous because 80 percent of women who are stalked by former husbands are physically assaulted, and 30 percent are sexually assaulted, according to the Center for Policy Research, *Stalking in America*.

## THE LAW

The first stalking laws originated in California in the early 1990’s as a result of the stalking and murder of Rebecca Schaeffer, star of television series *My Sister Sam*. While prosecutions for such off-line conduct are occurring with more frequency, they can hardly be characterized as commonplace. Many victims, especially victims of simple-obsessional stalking, choose not to even report stalking incidents, thus perpetuating the problem.

As infrequent as off-line stalking cases are, cyberstalking prosecutions are even more infrequent. About one-third of states have passed specific cyberstalking laws. Another group of states, including Kentucky, have amended existing general stalking statutes to make cyberstalking a crime, also. It is important that investigators understand the nature of cyberstalking versus other forms of computer related offenses. For instance, cyberbullying — which is itself growing more commonplace — involves the victimization of minors while cyberstalking typically implicates harassment between adults.

Kentucky’s response to the problem of cyberstalking is subsumed within our off-line or general stalking statute. KRS § 508.130 provides:

(1)(a) To “stalk” means to engage in an intentional course of conduct:

1. Directed at a specific person or persons;
2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
3. Which serves no legitimate purpose. >>



>> (b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

The next sub-section of the Kentucky statute specifically addresses cyberstalking. The relevant part of that section provides:

(2) “Course of conduct” means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. One (1) or more of these acts may include the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device. (emphasis added)

Thus, in Kentucky, a prosecution for cyberstalking must establish a prohibited course of conduct aimed at a specific individual and uses at least one act involving an electronic or digital device. Our statute also requires that the offender act intentionally as opposed to wantonly or recklessly. This statute prohibits a common characteristic of most cyberstalking cases — a combination of online and offline behavior.

No appellate cases specifically address Kentucky’s cyberstalking laws. In other jurisdictions, similar statutes have faced constitutional challenges involving the void-for-vagueness doctrine and overbreadth. The former allege that the stalking statutes are insufficient to place the public on notice of what conduct is illegal and that such laws can lead to arbitrary, discriminatory enforcement. The latter typically focus on the inclusion of such words as “annoy” within the statute. Such terms can be problematic. After all, what annoys one person may not annoy another. In most instances involving such challenges in other states, where statutes aimed at cyberstalking contained a requirement that the defendant had a specific intent to commit the crime and protection for constitutionally protected activity, courts have determined that

the statutes are not unconstitutionally overbroad.

Because little or no case law exists which interprets Kentucky’s cyberstalking statute, law enforcement officers should consult with prosecutors prior to charging individuals under this provision to ensure that each statutory element is satisfied.

### HOW IT’S DONE

These aren’t your grandmother’s stalkers. It’s much less common these days for a stalker to be waiting for a victim in the parking lot, flowers in hand. Electronic advancements in the last decade have made it much easier for stalkers to target victims who have less proximity and familiarity with the perpetrator. This much darker world of cyberstalking necessarily involves less face-to-face contact, which in turn may equip the stalker with more confidence.

Cyberstalkers use various electronic means to accomplish their goals. Popular social media sites like Facebook, Twitter and, to a lesser extent, the declining MySpace, allow a perpetrator to “follow” their victims, and possibly know where these victims are at all times. Both Facebook and Twitter offer location services which allow users to “check-in” with their current whereabouts. Online profiles also allow stalkers to view photos and collect personal information about their victims.

Facebook, with 750 million users worldwide, allows users to “check-in” with their location and maintain a list of “friends.” Victims may be unaware of the malintent of one or more of their so-called “friends.” Indiscretion in confirming someone as a “friend” may carry dire consequences if a person is requesting to be someone’s “friend” only to gain access to their personal information, photos and/or location. Although Facebook attempts to give users some control over the privacy settings on their account, uninformed users may not be aware of the need to filter their information so it only reaches those they trust. Similarly, Twitter, with 200 million users worldwide and rapidly growing, gives users 140 characters to post “what they are doing” and allows them to tag their location or add a photo to every post.

Less socially “connected” stalkers are not without electronic means to accomplish their goals. Many victims may try to seek help, and may use Internet searches and email to contact a resource. For obvious reasons, most victims will attempt to seek help without the stalker’s knowledge. Without some degree of technological savvy, many victims will be unable to cover their tracks (or unaware of the necessity or importance of doing so). This often leads obsessed stalkers to become increasingly angered upon learning of attempted escapes. Victims who do not clear their



Internet searches and/or neglect to change their email or social networking passwords subject themselves to increased risk of violence from their stalkers. Not only may data be stored on a computer's hard drive, but stalkers can easily obtain a "key logger" from any number of retail electronic stores. A key logger is a hardware device that is either plugged into a USB port or attached between the keyboard and the computer. These also take the form of software, which is installed to the computer itself. Both methods enable a stalker to track every key typed and every website visited. Some of these programs automatically send the data to the perpetrator periodically. This method of stalking may be useful to a perpetrator because it could allow access to a victim's personal information, or inform them of attempts to escape.

In addition to the Internet and key loggers, cellular phones allow stalkers to keep tabs on victims in a world that is becoming increasingly dependent on smart phones. AT&T provides a service which allows users to track family members, or anyone else who shares the same service plan. The service is meant to provide peace of mind for parents in knowing where their children are, but could just as easily be used by a husband to track every move of his estranged wife. The program does provide notice to the person being tracked, but the only way that person can decline to be tracked is to

turn their cell phone off. Apple has recently released an iPhone application called "Find My Friends." The description of the application provides: "Adding a friend is easy — just send a request to see their location. Once your friend accepts using the Find My Friends app, you will then be able to see that friend's location on a list or on a map." The application boasts many features, including the ability to "easily locate friends and family."

Finally, there is some case law involving hidden cameras used to spy on victims who assume they are in the privacy of their own home. For example, a New Jersey case, *H.E.S. v. J.C.S.* (2003), describes a camera and microphone hidden by a man inside his estranged wife's bedroom. This type of stalking behavior is not uncommon, and improving technology allows the cameras used to be smaller and more inconspicuous. With most states choosing to enact more specific stalking laws, this behavior is bound to be the subject of more prosecution. The problem with these cases, however, is that this type of passive observance may not fit neatly within the definition of stalking. For example, under Kentucky's statute, there is no evidence that such passive monitoring is annoying, alarming, intimidating or harassing anyone. Therefore courts may be faced with the task of interpreting such video monitoring under the cyberstalking law in addition to Kentucky's existing voyeurism statute found in KRS § 531. This is significant because stalking in the first degree is a Class D felony, where voyeurism is a less serious Class A misdemeanor.

Although cyberstalking as an independent topic of legislation and litigation may be relatively new, the practices involved in these cases are as old as the Internet itself. In their 2001 report to Congress, the Department of Justice sums up the issue:

"Many stalkers — online or off-line — are motivated by a desire to exert control over their victims and will engage in similar types of behavior to accomplish this end ... [W]here a potential stalker may be unwilling or unable to confront a victim in person or on the telephone, he or she may have little hesitation sending harassing or threatening electronic communications. Furthermore, as with physical stalking, online harassment and threats may foreshadow more serious behavior, including physical violence." ■

## Terror spawned from spurned romance

In the first successful prosecution under California's new cyberstalking law, prosecutors in the Los Angeles District Attorney's Office obtained a guilty plea from a 50-year-old former security guard who used the Internet to solicit the rape of a woman who spurned his romantic advances. The man terrorized his 28-year-old victim by impersonating her in various chat rooms and message boards where he posted messages that she fantasized about being raped — along with her contact information. On at least six occasions, sometimes in the middle of the night, various men knocked on the woman's door saying they wanted to rape her. The man pleaded guilty to one count of stalking and three counts of solicitation of sexual assault, and faced up to six years in prison.

(Source: United States Department of Justice. (2001) *Stalking and Domestic Violence, Report to Congress* (NCJ 186157)). ■







## The Serious Business of Laughing at Life

In his book, “The Serious Business of Laughing at Life,” Kevin Trees has penned his thoughts and feelings about life and the importance of never giving up. Trees, of the Louisville Metro Police Department was critically injured in a motorcycle accident in 2003 and subsequently lost his right leg. Undaunted, he mastered the use of his prosthetic limb, passed a rigorous physical and was reinstated as an active duty officer. He has been honored with two of the agency’s Lifesaving Awards and was Officer of the Month in January 2007. He also has trained with the department’s aviation division to fly helicopters.

Trees’ autobiographical account of growing up and the adversities of his youth coupled with his adult tragedies, has given us a glimpse of what laughing at life’s hard knocks and moving forward is all about.

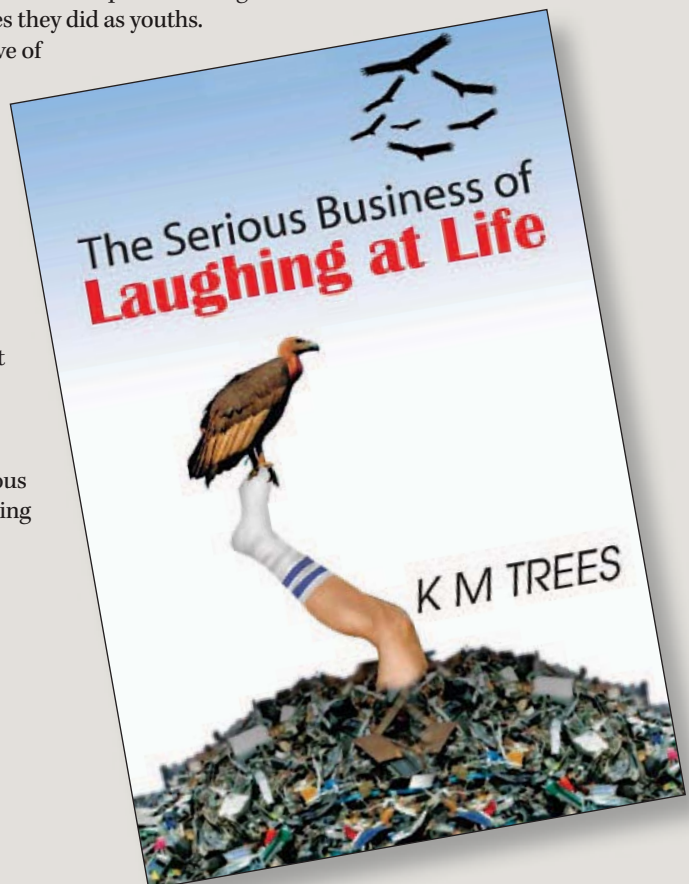
Kevin pulls no punches and leaves the readers with the knowledge that in order to overcome life’s hurdles you must identify its source, confront it and, most importantly, move beyond it.

Sometimes life is not fair. But, in his honest account of dealing with life, he is able

to show us that each of us has the ability to overcome life’s hardships and succeed.

This book is a reaffirmation of life and a guide to anyone struggling who believes they are all alone. Oftentimes, we have battled only to find others who have gone through the same plight, and many are willing to share their experiences. Parents do this daily in the lessons they teach their children, hoping the children will be spared making the same mistakes they did as youths.

Trees’ narrative of his joys and triumphs help us to look inward and acknowledge what is truly important for each of us. We have problems both big and small, but by facing them, and overcoming them we can get on with “the serious business of laughing at life.”



by Kevin Trees, Xlibris Press, Bloomington, Indiana, 2011

# STRANGE STORIES FROM THE BEAT

## » "Gumby" Bends to Police Pressure



San Diego police said a man dressed in a Gumby costume and an accomplice went into a 7-Eleven and told the clerk it was a robbery. The clerk thought it was a prank and dismissed him.

Both then left the

store. Surveillance video shows the clumsy would-be robber struggling to keep the green suit on as he walked out the door.

Police said the man later turned himself in, with his alleged accomplice. The two men voluntarily went to police headquarters and brought the Gumby suit and turned it in as well.

## » Meth Raid Leads to Tombstone Haul

California narcotics investigators raiding a home during a methamphetamine bust found two dozen granite and marble tombstones in the backyard.

Investigators were trying to locate family members so the markers can be returned to the proper place in graveyards.

The 24 tombstones had an estimated value of \$48,000.

During the raid, the deputies noticed the tombstones, weighing hundreds of pounds each.



## Elderly Woman Demands Kiss, or She'll Shoot

It was almost a kiss of death. Deputies in Florida said a 92-year-old woman opened fire on her neighbor's house after the much younger resident refused to give her a kiss.

Investigators claimed the elderly woman refused to leave her 53-year-old neighbor's house unless he gave her a kiss.

She allegedly returned with a gun.

## Snakes in Your Pants

Police said an Arizona man stole several baby albino boa constrictors at a pet store by stuffing them in his shorts pocket. He was arrested after police reviewed surveillance footage from the pet store. The video shows the 22-year-old man entering the store, removing several snakes from their cage and placing them in the pocket of his shorts before exiting the store without paying. He then traveled to another pet store and traded several of the snakes for \$175 and a large reptile tank.

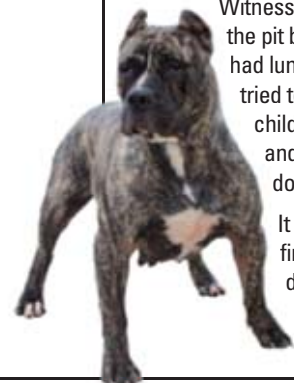


## Woman Shoots at Puppy, Kills Husband Instead

Police in Mississippi said a woman opened fire on a puppy that had threatened children.

Witnesses told police that the pit bull named "Cocaine" had lunged at children and tried to attack them. The children were taken inside and husband picked the dog up.

It was then that she fired twice, hitting the dog once and her husband once in the chest.



» IF YOU HAVE ANY

funny, interesting or strange stories from the beat, please send them to [jimd.robertson@ky.gov](mailto:jimd.robertson@ky.gov).





KENTUCKY

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Department of Criminal Justice Training  
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Funderburk Building, Eastern Kentucky University  
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